

FIRST REGULAR SESSION  
[TRULY AGREED TO AND FINALLY PASSED]  
SENATE COMMITTEE SUBSTITUTE FOR

# HOUSE BILL NO. 301

## 97TH GENERAL ASSEMBLY

1140S.02T

2013

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### AN ACT

To repeal sections 43.650, 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447, 217.010, 339.100, 556.036, 556.037, 556.061, 558.018, 558.026, 559.115, 559.117, 566.020, 566.030, 566.031, 566.040, 566.060, 566.061, 566.070, 566.090, 566.093, 566.095, 566.100, 566.101, 566.224, 566.226, 589.015, 589.400, 589.402, 590.700, 632.480, 632.498 and 632.505, RSMo, and to enact in lieu thereof thirty-seven new sections relating to sex offenders, with penalty provisions for certain sections and with an emergency clause for certain sections.

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*Be it enacted by the General Assembly of the state of Missouri, as follows:*

Section A. Sections 43.650, 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447, 217.010, 339.100, 556.036, 556.037, 556.061, 558.018, 558.026, 559.115, 559.117, 566.020, 566.030, 566.031, 566.040, 566.060, 566.061, 566.070, 566.090, 566.093, 566.095, 566.100, 566.101, 566.224, 566.226, 589.015, 589.400, 589.402, 590.700, 632.480, 632.498 and 632.505, RSMo, are repealed and thirty-seven new sections enacted in lieu thereof, to be known as sections 43.650, 160.261, 167.115, 167.171, 168.071, 188.023, 211.071, 211.447, 217.010, 217.738, 339.100, 556.036, 556.037, 556.061, 558.018, 558.026, 559.115, 559.117, 566.020, 566.030, 566.031, 566.060, 566.061, 566.093, 566.095, 566.100, 566.101, 566.224, 566.226, 589.015, 589.400, 589.402, 590.700, 632.480, 632.498, 632.505 and 1, to read as follows:

43.650. 1. The patrol shall, subject to appropriation, maintain a [web page] **website** on the internet which shall be open to the public and shall include a registered sexual offender search capability.

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

2. The registered sexual offender search shall make it possible for any person using the internet to search for and find the information specified in subsection 4 of this section, if known, on offenders registered in this state pursuant to sections 589.400 to 589.425, except that only persons who have been convicted of, found guilty of or plead guilty to committing, attempting to commit, or conspiring to commit sexual offenses shall be included on this website.

3. The registered sexual offender search shall include the capability to search for sexual offenders by name, zip code, and by typing in an address and specifying a search within a certain number of miles radius from that address.

4. Only the information listed in this subsection shall be provided to the public in the registered sexual offender search:

- (1) The name and any known aliases of the offender;
- (2) The date of birth and any known alias dates of birth of the offender;
- (3) A physical description of the offender;
- (4) The residence, temporary, work, and school addresses of the offender, including the street address, city, county, state, and zip code;
- (5) Any photographs of the offender;
- (6) A physical description of the offender's vehicles, including the year, make, model, color, and license plate number;
- (7) The nature and dates of all offenses qualifying the offender to register;
- (8) The date on which the offender was released from the department of mental health, prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying the offender to register;
- (9) Compliance status of the offender with the provisions of section 589.400 to 589.425; and
- (10) Any online identifiers, as defined in section 43.651, used by the person. Such online identifiers shall not be included in the general profile of an offender on the [web page] website and shall only be available to a member of the public by a search using the specific online identifier to determine if a match exists with a registered offender.

**5. Beginning August 28, 2013, no offender's information whose offense was committed in the state of Missouri, or in any other state, when such offender was a juvenile shall be listed on the website. Effective August 28, 2013, any offender currently on the website who was required to register as a sex offender under section 589.400, based on an offense that occurred when such offender was a juvenile shall be immediately removed from the website. For purposes of this subsection, "juvenile" shall mean any person under eighteen years of age.**

160.261. 1. The local board of education of each school district shall clearly establish  
2 a written policy of discipline, including the district's determination on the use of corporal  
3 punishment and the procedures in which punishment will be applied. A written copy of the  
4 district's discipline policy and corporal punishment procedures, if applicable, shall be provided  
5 to the pupil and parent or legal guardian of every pupil enrolled in the district at the beginning  
6 of each school year and also made available in the office of the superintendent of such district,  
7 during normal business hours, for public inspection. All employees of the district shall annually  
8 receive instruction related to the specific contents of the policy of discipline and any  
9 interpretations necessary to implement the provisions of the policy in the course of their duties,  
10 including but not limited to approved methods of dealing with acts of school violence,  
11 disciplining students with disabilities and instruction in the necessity and requirements for  
12 confidentiality.

13 2. The policy shall require school administrators to report acts of school violence to all  
14 teachers at the attendance center and, in addition, to other school district employees with a need  
15 to know. For the purposes of this chapter or chapter 167, "need to know" is defined as school  
16 personnel who are directly responsible for the student's education or who otherwise interact with  
17 the student on a professional basis while acting within the scope of their assigned duties. As  
18 used in this section, the phrase "act of school violence" or "violent behavior" means the exertion  
19 of physical force by a student with the intent to do serious physical injury as defined in  
20 subdivision (6) of section 565.002 to another person while on school property, including a school  
21 bus in service on behalf of the district, or while involved in school activities. The policy shall  
22 at a minimum require school administrators to report, as soon as reasonably practical, to the  
23 appropriate law enforcement agency any of the following crimes, or any act which if committed  
24 by an adult would be one of the following crimes:

- 25 (1) First degree murder under section 565.020;
- 26 (2) Second degree murder under section 565.021;
- 27 (3) Kidnapping under section 565.110;
- 28 (4) First degree assault under section 565.050;
- 29 (5) [Forcible] Rape **in the first degree** under section 566.030;
- 30 (6) [Forcible] Sodomy **in the first degree** under section 566.060;
- 31 (7) Burglary in the first degree under section 569.160;
- 32 (8) Burglary in the second degree under section 569.170;
- 33 (9) Robbery in the first degree under section 569.020;
- 34 (10) Distribution of drugs under section 195.211;
- 35 (11) Distribution of drugs to a minor under section 195.212;
- 36 (12) Arson in the first degree under section 569.040;

- 37 (13) Voluntary manslaughter under section 565.023;  
38 (14) Involuntary manslaughter under section 565.024;  
39 (15) Second degree assault under section 565.060;  
40 (16) [Sexual assault] **Rape in the second degree** under section [566.040] **566.031**;  
41 (17) Felonious restraint under section 565.120;  
42 (18) Property damage in the first degree under section 569.100;  
43 (19) The possession of a weapon under chapter 571;  
44 (20) Child molestation in the first degree pursuant to section 566.067;  
45 (21) [Deviate sexual assault] **Sodomy in the second degree** pursuant to section  
46 [566.070] **566.061**;  
47 (22) Sexual misconduct involving a child pursuant to section 566.083;  
48 (23) Sexual abuse **in the first degree** pursuant to section 566.100;  
49 (24) Harassment under section 565.090; or  
50 (25) Stalking under section 565.225; committed on school property, including but not  
51 limited to actions on any school bus in service on behalf of the district or while involved in  
52 school activities. The policy shall require that any portion of a student's individualized education  
53 program that is related to demonstrated or potentially violent behavior shall be provided to any  
54 teacher and other school district employees who are directly responsible for the student's  
55 education or who otherwise interact with the student on an educational basis while acting within  
56 the scope of their assigned duties. The policy shall also contain the consequences of failure to  
57 obey standards of conduct set by the local board of education, and the importance of the  
58 standards to the maintenance of an atmosphere where orderly learning is possible and  
59 encouraged.
- 60 3. The policy shall provide that any student who is on suspension for any of the offenses  
61 listed in subsection 2 of this section or any act of violence or drug-related activity defined by  
62 school district policy as a serious violation of school discipline pursuant to subsection 9 of this  
63 section shall have as a condition of his or her suspension the requirement that such student is not  
64 allowed, while on such suspension, to be within one thousand feet of any school property in the  
65 school district where such student attended school or any activity of that district, regardless of  
66 whether or not the activity takes place on district property unless:
- 67 (1) Such student is under the direct supervision of the student's parent, legal guardian,  
68 or custodian and the superintendent or the superintendent's designee has authorized the student  
69 to be on school property;
- 70 (2) Such student is under the direct supervision of another adult designated by the  
71 student's parent, legal guardian, or custodian, in advance, in writing, to the principal of the school

72 which suspended the student and the superintendent or the superintendent's designee has  
73 authorized the student to be on school property;

74 (3) Such student is enrolled in and attending an alternative school that is located within  
75 one thousand feet of a public school in the school district where such student attended school;  
76 or

77 (4) Such student resides within one thousand feet of any public school in the school  
78 district where such student attended school in which case such student may be on the property  
79 of his or her residence without direct adult supervision.

80 4. Any student who violates the condition of suspension required pursuant to subsection  
81 3 of this section may be subject to expulsion or further suspension pursuant to the provisions of  
82 sections 167.161, 167.164, and 167.171. In making this determination consideration shall be  
83 given to whether the student poses a threat to the safety of any child or school employee and  
84 whether such student's unsupervised presence within one thousand feet of the school is disruptive  
85 to the educational process or undermines the effectiveness of the school's disciplinary policy.  
86 Removal of any pupil who is a student with a disability is subject to state and federal procedural  
87 rights. This section shall not limit a school district's ability to:

88 (1) Prohibit all students who are suspended from being on school property or attending  
89 an activity while on suspension;

90 (2) Discipline students for off-campus conduct that negatively affects the educational  
91 environment to the extent allowed by law.

92 5. The policy shall provide for a suspension for a period of not less than one year, or  
93 expulsion, for a student who is determined to have brought a weapon to school, including but  
94 not limited to the school playground or the school parking lot, brought a weapon on a school bus  
95 or brought a weapon to a school activity whether on or off of the school property in violation of  
96 district policy, except that:

97 (1) The superintendent or, in a school district with no high school, the principal of the  
98 school which such child attends may modify such suspension on a case-by-case basis; and

99 (2) This section shall not prevent the school district from providing educational services  
100 in an alternative setting to a student suspended under the provisions of this section.

101 6. For the purpose of this section, the term "weapon" shall mean a firearm as defined  
102 under 18 U.S.C. 921 and the following items, as defined in section 571.010: a blackjack, a  
103 concealable firearm, an explosive weapon, a firearm, a firearm silencer, a gas gun, a knife,  
104 knuckles, a machine gun, a projectile weapon, a rifle, a shotgun, a spring gun or a switchblade  
105 knife; except that this section shall not be construed to prohibit a school board from adopting a  
106 policy to allow a Civil War reenactor to carry a Civil War era weapon on school property for  
107 educational purposes so long as the firearm is unloaded. The local board of education shall

108 define weapon in the discipline policy. Such definition shall include the weapons defined in this  
109 subsection but may also include other weapons.

110         7. All school district personnel responsible for the care and supervision of students are  
111 authorized to hold every pupil strictly accountable for any disorderly conduct in school or on any  
112 property of the school, on any school bus going to or returning from school, during school-  
113 sponsored activities, or during intermission or recess periods.

114         8. Teachers and other authorized district personnel in public schools responsible for the  
115 care, supervision, and discipline of schoolchildren, including volunteers selected with reasonable  
116 care by the school district, shall not be civilly liable when acting in conformity with the  
117 established policies developed by each board, including but not limited to policies of student  
118 discipline or when reporting to his or her supervisor or other person as mandated by state law  
119 acts of school violence or threatened acts of school violence, within the course and scope of the  
120 duties of the teacher, authorized district personnel or volunteer, when such individual is acting  
121 in conformity with the established policies developed by the board. Nothing in this section shall  
122 be construed to create a new cause of action against such school district, or to relieve the school  
123 district from liability for the negligent acts of such persons.

124         9. Each school board shall define in its discipline policy acts of violence and any other  
125 acts that constitute a serious violation of that policy. "Acts of violence" as defined by school  
126 boards shall include but not be limited to exertion of physical force by a student with the intent  
127 to do serious bodily harm to another person while on school property, including a school bus in  
128 service on behalf of the district, or while involved in school activities. School districts shall for  
129 each student enrolled in the school district compile and maintain records of any serious violation  
130 of the district's discipline policy. Such records shall be made available to teachers and other  
131 school district employees with a need to know while acting within the scope of their assigned  
132 duties, and shall be provided as required in section 167.020 to any school district in which the  
133 student subsequently attempts to enroll.

134         10. Spanking, when administered by certificated personnel and in the presence of a  
135 witness who is an employee of the school district, or the use of reasonable force to protect  
136 persons or property, when administered by personnel of a school district in a reasonable manner  
137 in accordance with the local board of education's written policy of discipline, is not abuse within  
138 the meaning of chapter 210. The provisions of sections 210.110 to 210.165 notwithstanding, the  
139 children's division shall not have jurisdiction over or investigate any report of alleged child abuse  
140 arising out of or related to the use of reasonable force to protect persons or property when  
141 administered by personnel of a school district or any spanking administered in a reasonable  
142 manner by any certificated school personnel in the presence of a witness who is an employee of  
143 the school district pursuant to a written policy of discipline established by the board of education

144 of the school district, as long as no allegation of sexual misconduct arises from the spanking or  
145 use of force.

146       11. If a student reports alleged sexual misconduct on the part of a teacher or other school  
147 employee to a person employed in a school facility who is required to report such misconduct  
148 to the children's division under section 210.115, such person and the superintendent of the school  
149 district shall forward the allegation to the children's division within twenty-four hours of  
150 receiving the information. Reports made to the children's division under this subsection shall  
151 be investigated by the division in accordance with the provisions of sections 210.145 to 210.153  
152 and shall not be investigated by the school district under subsections 12 to 20 of this section for  
153 purposes of determining whether the allegations should or should not be substantiated. The  
154 district may investigate the allegations for the purpose of making any decision regarding the  
155 employment of the accused employee.

156       12. Upon receipt of any reports of child abuse by the children's division other than  
157 reports provided under subsection 11 of this section, pursuant to sections 210.110 to 210.165  
158 which allegedly involve personnel of a school district, the children's division shall notify the  
159 superintendent of schools of the district or, if the person named in the alleged incident is the  
160 superintendent of schools, the president of the school board of the school district where the  
161 alleged incident occurred.

162       13. If, after an initial investigation, the superintendent of schools or the president of the  
163 school board finds that the report involves an alleged incident of child abuse other than the  
164 administration of a spanking by certificated school personnel or the use of reasonable force to  
165 protect persons or property when administered by school personnel pursuant to a written policy  
166 of discipline or that the report was made for the sole purpose of harassing a public school  
167 employee, the superintendent of schools or the president of the school board shall immediately  
168 refer the matter back to the children's division and take no further action. In all matters referred  
169 back to the children's division, the division shall treat the report in the same manner as other  
170 reports of alleged child abuse received by the division.

171       14. If the report pertains to an alleged incident which arose out of or is related to a  
172 spanking administered by certificated personnel or the use of reasonable force to protect persons  
173 or property when administered by personnel of a school district pursuant to a written policy of  
174 discipline or a report made for the sole purpose of harassing a public school employee, a  
175 notification of the reported child abuse shall be sent by the superintendent of schools or the  
176 president of the school board to the law enforcement in the county in which the alleged incident  
177 occurred.

15. The report shall be jointly investigated by the law enforcement officer and the superintendent of schools or, if the subject of the report is the superintendent of schools, by a law enforcement officer and the president of the school board or such president's designee.

16. The investigation shall begin no later than forty-eight hours after notification from the children's division is received, and shall consist of, but need not be limited to, interviewing and recording statements of the child and the child's parents or guardian within two working days after the start of the investigation, of the school district personnel allegedly involved in the report, and of any witnesses to the alleged incident.

17. The law enforcement officer and the investigating school district personnel shall issue separate reports of their findings and recommendations after the conclusion of the investigation to the school board of the school district within seven days after receiving notice from the children's division.

18. The reports shall contain a statement of conclusion as to whether the report of alleged child abuse is substantiated or is unsubstantiated.

19. The school board shall consider the separate reports referred to in subsection 17 of this section and shall issue its findings and conclusions and the action to be taken, if any, within seven days after receiving the last of the two reports. The findings and conclusions shall be made in substantially the following form:

(1) The report of the alleged child abuse is unsubstantiated. The law enforcement officer and the investigating school board personnel agree that there was not a preponderance of evidence to substantiate that abuse occurred;

(2) The report of the alleged child abuse is substantiated. The law enforcement officer and the investigating school district personnel agree that the preponderance of evidence is sufficient to support a finding that the alleged incident of child abuse did occur;

(3) The issue involved in the alleged incident of child abuse is unresolved. The law enforcement officer and the investigating school personnel are unable to agree on their findings and conclusions on the alleged incident.

20. The findings and conclusions of the school board under subsection 19 of this section shall be sent to the children's division. If the findings and conclusions of the school board are that the report of the alleged child abuse is unsubstantiated, the investigation shall be terminated, the case closed, and no record shall be entered in the children's division central registry. If the findings and conclusions of the school board are that the report of the alleged child abuse is substantiated, the children's division shall report the incident to the prosecuting attorney of the appropriate county along with the findings and conclusions of the school district and shall include the information in the division's central registry. If the findings and conclusions of the school board are that the issue involved in the alleged incident of child abuse is unresolved, the



214 children's division shall report the incident to the prosecuting attorney of the appropriate county  
215 along with the findings and conclusions of the school board, however, the incident and the names  
216 of the parties allegedly involved shall not be entered into the central registry of the children's  
217 division unless and until the alleged child abuse is substantiated by a court of competent  
218 jurisdiction.

219 21. Any superintendent of schools, president of a school board or such person's designee  
220 or law enforcement officer who knowingly falsifies any report of any matter pursuant to this  
221 section or who knowingly withholds any information relative to any investigation or report  
222 pursuant to this section is guilty of a class A misdemeanor.

223 22. In order to ensure the safety of all students, should a student be expelled for bringing  
224 a weapon to school, violent behavior, or for an act of school violence, that student shall not, for  
225 the purposes of the accreditation process of the Missouri school improvement plan, be  
226 considered a dropout or be included in the calculation of that district's educational persistence  
227 ratio.

167.115. 1. Notwithstanding any provision of chapter 211 or chapter 610 to the contrary,  
2 the juvenile officer, sheriff, chief of police or other appropriate law enforcement authority shall,  
3 as soon as reasonably practical, notify the superintendent, or the superintendent's designee, of  
4 the school district in which the pupil is enrolled when a petition is filed pursuant to subsection  
5 1 of section 211.031 alleging that the pupil has committed one of the following acts:

- 6 (1) First degree murder under section 565.020;
- 7 (2) Second degree murder under section 565.021;
- 8 (3) Kidnapping under section 565.110;
- 9 (4) First degree assault under section 565.050;
- 10 (5) Forcible rape under section 566.030 **as it existed prior to August 28, 2013, or rape**  
11 **in the first degree under section 566.030;**
- 12 (6) Forcible sodomy under section 566.060 **as it existed prior to August 28, 2013, or**  
13 **sodomy in the first degree under section 566.060;**
- 14 (7) Burglary in the first degree under section 569.160;
- 15 (8) Robbery in the first degree under section 569.020;
- 16 (9) Distribution of drugs under section 195.211;
- 17 (10) Distribution of drugs to a minor under section 195.212;
- 18 (11) Arson in the first degree under section 569.040;
- 19 (12) Voluntary manslaughter under section 565.023;
- 20 (13) Involuntary manslaughter under section 565.024;
- 21 (14) Second degree assault under section 565.060;

- 22 (15) Sexual assault under section 566.040 **as it existed prior to August 28, 2013, or**  
23 **rape in the second degree under section 566.031;**
- 24 (16) Felonious restraint under section 565.120;
- 25 (17) Property damage in the first degree under section 569.100;
- 26 (18) The possession of a weapon under chapter 571;
- 27 (19) Child molestation in the first degree pursuant to section 566.067;
- 28 (20) Deviate sexual assault pursuant to section 566.070 **as it existed prior to August**  
29 **28, 2013, or sodomy in the second degree under section 566.061;**
- 30 (21) Sexual misconduct involving a child pursuant to section 566.083; or
- 31 (22) Sexual abuse pursuant to section 566.100 **as it existed prior to August 28, 2013,**  
32 **or sexual abuse in the first degree under section 566.100.**
- 33 2. The notification shall be made orally or in writing, in a timely manner, no later than  
34 five days following the filing of the petition. If the report is made orally, written notice shall  
35 follow in a timely manner. The notification shall include a complete description of the conduct  
36 the pupil is alleged to have committed and the dates the conduct occurred but shall not include  
37 the name of any victim. Upon the disposition of any such case, the juvenile office or prosecuting  
38 attorney or their designee shall send a second notification to the superintendent providing the  
39 disposition of the case, including a brief summary of the relevant finding of facts, no later than  
40 five days following the disposition of the case.
- 41 3. The superintendent or the designee of the superintendent shall report such information  
42 to teachers and other school district employees with a need to know while acting within the scope  
43 of their assigned duties. Any information received by school district officials pursuant to this  
44 section shall be received in confidence and used for the limited purpose of assuring that good  
45 order and discipline is maintained in the school. This information shall not be used as the sole  
46 basis for not providing educational services to a public school pupil.
- 47 4. The superintendent shall notify the appropriate division of the juvenile or family court  
48 upon any pupil's suspension for more than ten days or expulsion of any pupil that the school  
49 district is aware is under the jurisdiction of the court.
- 50 5. The superintendent or the superintendent's designee may be called to serve in a  
51 consultant capacity at any dispositional proceedings pursuant to section 211.031 which may  
52 involve reference to a pupil's academic treatment plan.
- 53 6. Upon the transfer of any pupil described in this section to any other school district in  
54 this state, the superintendent or the superintendent's designee shall forward the written  
55 notification given to the superintendent pursuant to subsection 2 of this section to the  
56 superintendent of the new school district in which the pupil has enrolled. Such written  
57 notification shall be required again in the event of any subsequent transfer by the pupil.

58           7. As used in this section, the terms “school” and “school district” shall include any  
59 charter, private or parochial school or school district, and the term “superintendent” shall include  
60 the principal or equivalent chief school officer in the cases of charter, private or parochial  
61 schools.

62           8. The superintendent or the designee of the superintendent or other school employee  
63 who, in good faith, reports information in accordance with the terms of this section and section  
64 160.261 shall not be civilly liable for providing such information.

167.171. 1. The school board in any district, by general rule and for the causes provided  
2 in section 167.161, may authorize the summary suspension of pupils by principals of schools for  
3 a period not to exceed ten school days and by the superintendent of schools for a period not to  
4 exceed one hundred and eighty school days. In case of a suspension by the superintendent for  
5 more than ten school days, the pupil, the pupil's parents or others having such pupil's custodial  
6 care may appeal the decision of the superintendent to the board or to a committee of board  
7 members appointed by the president of the board which shall have full authority to act in lieu of  
8 the board. Any suspension by a principal shall be immediately reported to the superintendent  
9 who may revoke the suspension at any time. In event of an appeal to the board, the  
10 superintendent shall promptly transmit to it a full report in writing of the facts relating to the  
11 suspension, the action taken by the superintendent and the reasons therefor and the board, upon  
12 request, shall grant a hearing to the appealing party to be conducted as provided in section  
13 167.161.

14           2. No pupil shall be suspended unless:

15           (1) The pupil shall be given oral or written notice of the charges against such pupil;

16           (2) If the pupil denies the charges, such pupil shall be given an oral or written  
17 explanation of the facts which form the basis of the proposed suspension;

18           (3) The pupil shall be given an opportunity to present such pupil's version of the  
19 incident; and

20           (4) In the event of a suspension for more than ten school days, where the pupil gives  
21 notice that such pupil wishes to appeal the suspension to the board, the suspension shall be  
22 stayed until the board renders its decision, unless in the judgment of the superintendent of  
23 schools, or of the district superintendent, the pupil's presence poses a continuing danger to  
24 persons or property or an ongoing threat of disrupting the academic process, in which case the  
25 pupil may be immediately removed from school, and the notice and hearing shall follow as soon  
26 as practicable.

27           3. No school board shall readmit or enroll a pupil properly suspended for more than ten  
28 consecutive school days for an act of school violence as defined in subsection 2 of section  
29 160.261 regardless of whether or not such act was committed at a public school or at a private

30 school in this state, provided that such act shall have resulted in the suspension or expulsion of  
31 such pupil in the case of a private school, or otherwise permit such pupil to attend school without  
32 first holding a conference to review the conduct that resulted in the expulsion or suspension and  
33 any remedial actions needed to prevent any future occurrences of such or related conduct. The  
34 conference shall include the appropriate school officials including any teacher employed in that  
35 school or district directly involved with the conduct that resulted in the suspension or expulsion,  
36 the pupil, the parent or guardian of the pupil or any agency having legal jurisdiction, care,  
37 custody or control of the pupil. The school board shall notify in writing the parents or guardians  
38 and all other parties of the time, place, and agenda of any such conference. Failure of any party  
39 to attend this conference shall not preclude holding the conference. Notwithstanding any  
40 provision of this subsection to the contrary, no pupil shall be readmitted or enrolled to a regular  
41 program of instruction if:

- 42 (1) Such pupil has been convicted of; or
- 43 (2) An indictment or information has been filed alleging that the pupil has committed  
44 one of the acts enumerated in subdivision (4) of this subsection to which there has been no final  
45 judgment; or
- 46 (3) A petition has been filed pursuant to section 211.091 alleging that the pupil has  
47 committed one of the acts enumerated in subdivision (4) of this subsection to which there has  
48 been no final judgment; or
- 49 (4) The pupil has been adjudicated to have committed an act which if committed by an  
50 adult would be one of the following:
  - 51 (a) First degree murder under section 565.020;
  - 52 (b) Second degree murder under section 565.021;
  - 53 (c) First degree assault under section 565.050;
  - 54 (d) Forcible rape under section 566.030 **as it existed prior to August 28, 2013, or rape**  
55 **in the first degree under section 566.030;**
  - 56 (e) Forcible sodomy under section 566.060 **as it existed prior to August 28, 2013, or**  
57 **sodomy in the first degree under section 566.060;**
  - 58 (f) Statutory rape under section 566.032;
  - 59 (g) Statutory sodomy under section 566.062;
  - 60 (h) Robbery in the first degree under section 569.020;
  - 61 (i) Distribution of drugs to a minor under section 195.212;
  - 62 (j) Arson in the first degree under section 569.040;
  - 63 (k) Kidnapping, when classified as a class A felony under section 565.110. Nothing in  
64 this subsection shall prohibit the readmittance or enrollment of any pupil if a petition has been  
65 dismissed, or when a pupil has been acquitted or adjudicated not to have committed any of the

66 above acts. This subsection shall not apply to a student with a disability, as identified under state  
67 eligibility criteria, who is convicted or adjudicated guilty as a result of an action related to the  
68 student's disability. Nothing in this subsection shall be construed to prohibit a school district  
69 which provides an alternative education program from enrolling a pupil in an alternative  
70 education program if the district determines such enrollment is appropriate.

71 4. If a pupil is attempting to enroll in a school district during a suspension or expulsion  
72 from another in-state or out-of-state school district including a private, charter or parochial  
73 school or school district, a conference with the superintendent or the superintendent's designee  
74 may be held at the request of the parent, court-appointed legal guardian, someone acting as a  
75 parent as defined by rule in the case of a special education student, or the pupil to consider if the  
76 conduct of the pupil would have resulted in a suspension or expulsion in the district in which the  
77 pupil is enrolling. Upon a determination by the superintendent or the superintendent's designee  
78 that such conduct would have resulted in a suspension or expulsion in the district in which the  
79 pupil is enrolling or attempting to enroll, the school district may make such suspension or  
80 expulsion from another school or district effective in the district in which the pupil is enrolling  
81 or attempting to enroll. Upon a determination by the superintendent or the superintendent's  
82 designee that such conduct would not have resulted in a suspension or expulsion in the district  
83 in which the student is enrolling or attempting to enroll, the school district shall not make such  
84 suspension or expulsion effective in its district in which the student is enrolling or attempting  
85 to enroll.

168.071. 1. The state board of education may refuse to issue or renew a certificate, or  
2 may, upon hearing, discipline the holder of a certificate of license to teach for the following  
3 causes:

4 (1) A certificate holder or applicant for a certificate has pleaded to or been found guilty  
5 of a felony or crime involving moral turpitude under the laws of this state, any other state, of the  
6 United States, or any other country, whether or not sentence is imposed;

7 (2) The certification was obtained through use of fraud, deception, misrepresentation or  
8 bribery;

9 (3) There is evidence of incompetence, immorality, or neglect of duty by the certificate  
10 holder;

11 (4) A certificate holder has been subject to disciplinary action relating to certification  
12 issued by another state, territory, federal agency, or country upon grounds for which discipline  
13 is authorized in this section; or

14 (5) If charges are filed by the local board of education, based upon the annulling of a  
15 written contract with the local board of education, for reasons other than election to the general

16 assembly, without the consent of the majority of the members of the board that is a party to the  
17 contract.

18 2. A public school district may file charges seeking the discipline of a holder of a  
19 certificate of license to teach based upon any cause or combination of causes outlined in  
20 subsection 1 of this section, including annulment of a written contract. Charges shall be in  
21 writing, specify the basis for the charges, and be signed by the chief administrative officer of the  
22 district, or by the president of the board of education as authorized by a majority of the board of  
23 education. The board of education may also petition the office of the attorney general to file  
24 charges on behalf of the school district for any cause other than annulment of contract, with  
25 acceptance of the petition at the discretion of the attorney general.

26 3. The department of elementary and secondary education may file charges seeking the  
27 discipline of a holder of a certificate of license to teach based upon any cause or combination of  
28 causes outlined in subsection 1 of this section, other than annulment of contract. Charges shall  
29 be in writing, specify the basis for the charges, and be signed by legal counsel representing the  
30 department of elementary and secondary education.

31 4. If the underlying conduct or actions which are the basis for charges filed pursuant to  
32 this section are also the subject of a pending criminal charge against the person holding such  
33 certificate, the certificate holder may request, in writing, a delayed hearing on advice of counsel  
34 under the fifth amendment of the Constitution of the United States. Based upon such a request,  
35 no hearing shall be held until after a trial has been completed on this criminal charge.

36 5. The certificate holder shall be given not less than thirty days' notice of any hearing  
37 held pursuant to this section.

38 6. Other provisions of this section notwithstanding, the certificate of license to teach  
39 shall be revoked or, in the case of an applicant, a certificate shall not be issued, if the certificate  
40 holder or applicant has pleaded guilty to or been found guilty of any of the following offenses  
41 established pursuant to Missouri law or offenses of a similar nature established under the laws  
42 of any other state or of the United States, or any other country, whether or not the sentence is  
43 imposed:

44 (1) Any dangerous felony as defined in section 556.061, or murder in the first degree  
45 under section 565.020;

46 (2) Any of the following sexual offenses: **rape in the first degree** under section  
47 **566.030; forcible rape under section 566.030 as it existed prior to August 28, 2013; rape as**  
48 **it existed prior to August 13, 1980;** statutory rape in the first degree under section 566.032;  
49 statutory rape in the second degree under section 566.034; **rape in the second degree under**  
50 **section 566.031;** sexual assault under section 566.040 **as it existed prior to August 28, 2013;**  
51 **sodomy in the first degree under section 566.060;** forcible sodomy under section 566.060 as

52 **it existed prior to August 28, 2013; sodomy as it existed prior to January 1, 1995;** statutory  
53 sodomy in the first degree under section 566.062; statutory sodomy in the second degree under  
54 section 566.064; child molestation in the first degree under section 566.067; child molestation  
55 in the second degree under section 566.068; **sodomy in the second degree under section**  
56 **566.061;** deviate sexual assault under section 566.070 **as it existed prior to August 28, 2013;**  
57 sexual misconduct involving a child under section 566.083; sexual contact with a student while  
58 on public school property under section 566.086; **sexual misconduct in the first degree under**  
59 **section 566.093;** sexual misconduct in the first degree under section 566.090 **as it existed prior**  
60 **to August 28, 2013; sexual misconduct in the second degree under section 566.095;** sexual  
61 misconduct in the second degree under section 566.093 **as it existed prior to August 28, 2013;**  
62 sexual misconduct in the third degree under section 566.095 **as it existed prior to August 28,**  
63 **2013; sexual abuse in the first degree under section 566.100;** sexual abuse under section  
64 566.100 **as it existed prior to August 28, 2013; sexual abuse in the second degree under**  
65 **section 566.101;** enticement of a child under section 566.151; or attempting to entice a child;

66 (3) Any of the following offenses against the family and related offenses: incest under  
67 section 568.020; abandonment of child in the first degree under section 568.030; abandonment  
68 of child in the second degree under section 568.032; endangering the welfare of a child in the  
69 first degree under section 568.045; abuse of a child under section 568.060; child used in a sexual  
70 performance under section 568.080; promoting sexual performance by a child under section  
71 568.090; or trafficking in children under section 568.175; and

72 (4) Any of the following offenses involving child pornography and related offenses:  
73 promoting obscenity in the first degree under section 573.020; promoting obscenity in the second  
74 degree when the penalty is enhanced to a class D felony under section 573.030; promoting child  
75 pornography in the first degree under section 573.025; promoting child pornography in the  
76 second degree under section 573.035; possession of child pornography under section 573.037;  
77 furnishing pornographic materials to minors under section 573.040; or coercing acceptance of  
78 obscene material under section 573.065.

79 7. When a certificate holder pleads guilty or is found guilty of any offense that would  
80 authorize the state board of education to seek discipline against that holder's certificate of license  
81 to teach, the local board of education or the department of elementary and secondary education  
82 shall immediately provide written notice to the state board of education and the attorney general  
83 regarding the plea of guilty or finding of guilty.

84 8. The certificate holder whose certificate was revoked pursuant to subsection 6 of this  
85 section may appeal such revocation to the state board of education. Notice of this appeal must  
86 be received by the commissioner of education within ninety days of notice of revocation pursuant  
87 to this subsection. Failure of the certificate holder to notify the commissioner of the intent to

88 appeal waives all rights to appeal the revocation. Upon notice of the certificate holder's intent  
89 to appeal, an appeal hearing shall be held by a hearing officer designated by the commissioner  
90 of education, with the final decision made by the state board of education, based upon the record  
91 of that hearing. The certificate holder shall be given not less than thirty days' notice of the  
92 hearing, and an opportunity to be heard by the hearing officer, together with witnesses.

93 9. In the case of any certificate holder who has surrendered or failed to renew his or her  
94 certificate of license to teach, the state board of education may refuse to issue or renew, or may  
95 suspend or revoke, such certificate for any of the reasons contained in this section.

96 10. In those cases where the charges filed pursuant to this section are based upon an  
97 allegation of misconduct involving a minor child, the hearing officer may accept into the record  
98 the sworn testimony of the minor child relating to the misconduct received in any court or  
99 administrative hearing.

100 11. Hearings, appeals or other matters involving certificate holders, licensees or  
101 applicants pursuant to this section may be informally resolved by consent agreement or agreed  
102 settlement or voluntary surrender of the certificate of license pursuant to the rules promulgated  
103 by the state board of education.

104 12. The final decision of the state board of education is subject to judicial review  
105 pursuant to sections 536.100 to 536.140.

106 13. A certificate of license to teach to an individual who has been convicted of a felony  
107 or crime involving moral turpitude, whether or not sentence is imposed, shall be issued only  
108 upon motion of the state board of education adopted by a unanimous affirmative vote of those  
109 members present and voting.

188.023. Any licensed health care professional who delivers a baby or performs an  
2 abortion, who has prima facie evidence that a patient has been the victim of statutory rape in the  
3 first degree or statutory rape in the second degree, or if the patient is under the age of eighteen,  
4 that he or she has been a victim of sexual abuse, including [forcible rape, sexual assault] **rape**  
5 **in the first or second degree**, or incest, shall be required to report such offenses in the same  
6 manner as provided for by section 210.115.

211.071. 1. If a petition alleges that a child between the ages of twelve and seventeen  
2 has committed an offense which would be considered a felony if committed by an adult, the court  
3 may, upon its own motion or upon motion by the juvenile officer, the child or the child's  
4 custodian, order a hearing and may, in its discretion, dismiss the petition and such child may be  
5 transferred to the court of general jurisdiction and prosecuted under the general law; except that  
6 if a petition alleges that any child has committed an offense which would be considered first  
7 degree murder under section 565.020, second degree murder under section 565.021, first degree  
8 assault under section 565.050, forcible rape under section 566.030 **as it existed prior to August**



9 **28, 2013, rape in the first degree under section 566.030**, forcible sodomy under section  
10 **566.060 as it existed prior to August 28, 2013, sodomy in the first degree under section**  
11 **566.060**, first degree robbery under section 569.020, or distribution of drugs under section  
12 195.211, or has committed two or more prior unrelated offenses which would be felonies if  
13 committed by an adult, the court shall order a hearing, and may in its discretion, dismiss the  
14 petition and transfer the child to a court of general jurisdiction for prosecution under the general  
15 law.

16 2. Upon apprehension and arrest, jurisdiction over the criminal offense allegedly  
17 committed by any person between seventeen and twenty-one years of age over whom the juvenile  
18 court has retained continuing jurisdiction shall automatically terminate and that offense shall be  
19 dealt with in the court of general jurisdiction as provided in section 211.041.

20 3. Knowing and willful age misrepresentation by a juvenile subject shall not affect any  
21 action or proceeding which occurs based upon the misrepresentation. Any evidence obtained  
22 during the period of time in which a child misrepresents his or her age may be used against the  
23 child and will be subject only to rules of evidence applicable in adult proceedings.

24 4. Written notification of a transfer hearing shall be given to the juvenile and his or her  
25 custodian in the same manner as provided in sections 211.101 and 211.111. Notice of the  
26 hearing may be waived by the custodian. Notice shall contain a statement that the purpose of the  
27 hearing is to determine whether the child is a proper subject to be dealt with under the provisions  
28 of this chapter, and that if the court finds that the child is not a proper subject to be dealt with  
29 under the provisions of this chapter, the petition will be dismissed to allow for prosecution of the  
30 child under the general law.

31 5. The juvenile officer may consult with the office of prosecuting attorney concerning  
32 any offense for which the child could be certified as an adult under this section. The prosecuting  
33 or circuit attorney shall have access to police reports, reports of the juvenile or deputy juvenile  
34 officer, statements of witnesses and all other records or reports relating to the offense alleged to  
35 have been committed by the child. The prosecuting or circuit attorney shall have access to the  
36 disposition records of the child when the child has been adjudicated pursuant to subdivision (3)  
37 of subsection 1 of section 211.031. The prosecuting attorney shall not divulge any information  
38 regarding the child and the offense until the juvenile court at a judicial hearing has determined  
39 that the child is not a proper subject to be dealt with under the provisions of this chapter.

40 6. A written report shall be prepared in accordance with this chapter developing fully all  
41 available information relevant to the criteria which shall be considered by the court in  
42 determining whether the child is a proper subject to be dealt with under the provisions of this  
43 chapter and whether there are reasonable prospects of rehabilitation within the juvenile justice  
44 system. These criteria shall include but not be limited to:

- 45           (1) The seriousness of the offense alleged and whether the protection of the community  
46 requires transfer to the court of general jurisdiction;
- 47           (2) Whether the offense alleged involved viciousness, force and violence;
- 48           (3) Whether the offense alleged was against persons or property with greater weight  
49 being given to the offense against persons, especially if personal injury resulted;
- 50           (4) Whether the offense alleged is a part of a repetitive pattern of offenses which  
51 indicates that the child may be beyond rehabilitation under the juvenile code;
- 52           (5) The record and history of the child, including experience with the juvenile justice  
53 system, other courts, supervision, commitments to juvenile institutions and other placements;
- 54           (6) The sophistication and maturity of the child as determined by consideration of his  
55 home and environmental situation, emotional condition and pattern of living;
- 56           (7) The age of the child;
- 57           (8) The program and facilities available to the juvenile court in considering disposition;
- 58           (9) Whether or not the child can benefit from the treatment or rehabilitative programs  
59 available to the juvenile court; and
- 60           (10) Racial disparity in certification.
- 61           7. If the court dismisses the petition to permit the child to be prosecuted under the  
62 general law, the court shall enter a dismissal order containing:
- 63           (1) Findings showing that the court had jurisdiction of the cause and of the parties;
- 64           (2) Findings showing that the child was represented by counsel;
- 65           (3) Findings showing that the hearing was held in the presence of the child and his  
66 counsel; and
- 67           (4) Findings showing the reasons underlying the court's decision to transfer jurisdiction.
- 68           8. A copy of the petition and order of the dismissal shall be sent to the prosecuting  
69 attorney.
- 70           9. When a petition has been dismissed thereby permitting a child to be prosecuted under  
71 the general law, the jurisdiction of the juvenile court over that child is forever terminated, except  
72 as provided in subsection 10 of this section, for an act that would be a violation of a state law or  
73 municipal ordinance.
- 74           10. If a petition has been dismissed thereby permitting a child to be prosecuted under the  
75 general law and the child is found not guilty by a court of general jurisdiction, the juvenile court  
76 shall have jurisdiction over any later offense committed by that child which would be considered  
77 a misdemeanor or felony if committed by an adult, subject to the certification provisions of this  
78 section.

79           11. If the court does not dismiss the petition to permit the child to be prosecuted under  
80 the general law, it shall set a date for the hearing upon the petition as provided in section  
81 211.171.

211.447. 1. Any information that could justify the filing of a petition to terminate  
2 parental rights may be referred to the juvenile officer by any person. The juvenile officer shall  
3 make a preliminary inquiry and if it does not appear to the juvenile officer that a petition should  
4 be filed, such officer shall so notify the informant in writing within thirty days of the referral.  
5 Such notification shall include the reasons that the petition will not be filed. Thereupon, the  
6 informant may bring the matter directly to the attention of the judge of the juvenile court by  
7 presenting the information in writing, and if it appears to the judge that the information could  
8 justify the filing of a petition, the judge may order the juvenile officer to take further action,  
9 including making a further preliminary inquiry or filing a petition.

10           2. Except as provided for in subsection 4 of this section, a petition to terminate the  
11 parental rights of the child's parent or parents shall be filed by the juvenile officer or the division,  
12 or if such a petition has been filed by another party, the juvenile officer or the division shall seek  
13 to be joined as a party to the petition, when:

14           (1) Information available to the juvenile officer or the division establishes that the child  
15 has been in foster care for at least fifteen of the most recent twenty-two months; or

16           (2) A court of competent jurisdiction has determined the child to be an abandoned infant.  
17 For purposes of this subdivision, an "infant" means any child one year of age or under at the time  
18 of filing of the petition. The court may find that an infant has been abandoned if:

19           (a) The parent has left the child under circumstances that the identity of the child was  
20 unknown and could not be ascertained, despite diligent searching, and the parent has not come  
21 forward to claim the child; or

22           (b) The parent has, without good cause, left the child without any provision for parental  
23 support and without making arrangements to visit or communicate with the child, although able  
24 to do so; or

25           (3) A court of competent jurisdiction has determined that the parent has:

26           (a) Committed murder of another child of the parent; or

27           (b) Committed voluntary manslaughter of another child of the parent; or

28           (c) Aided or abetted, attempted, conspired or solicited to commit such a murder or  
29 voluntary manslaughter; or

30           (d) Committed a felony assault that resulted in serious bodily injury to the child or to  
31 another child of the parent.

32           3. A termination of parental rights petition shall be filed by the juvenile officer or the  
33 division, or if such a petition has been filed by another party, the juvenile officer or the division

34 shall seek to be joined as a party to the petition, within sixty days of the judicial determinations  
35 required in subsection 2 of this section, except as provided in subsection 4 of this section.  
36 Failure to comply with this requirement shall not deprive the court of jurisdiction to adjudicate  
37 a petition for termination of parental rights which is filed outside of sixty days.

38 4. If grounds exist for termination of parental rights pursuant to subsection 2 of this  
39 section, the juvenile officer or the division may, but is not required to, file a petition to terminate  
40 the parental rights of the child's parent or parents if:

41 (1) The child is being cared for by a relative; or

42 (2) There exists a compelling reason for determining that filing such a petition would  
43 not be in the best interest of the child, as documented in the permanency plan which shall be  
44 made available for court review; or

45 (3) The family of the child has not been provided such services as provided for in section  
46 211.183.

47 5. The juvenile officer or the division may file a petition to terminate the parental rights  
48 of the child's parent when it appears that one or more of the following grounds for termination  
49 exist:

50 (1) The child has been abandoned. For purposes of this subdivision a "child" means any  
51 child over one year of age at the time of filing of the petition. The court shall find that the child  
52 has been abandoned if, for a period of six months or longer:

53 (a) The parent has left the child under such circumstances that the identity of the child  
54 was unknown and could not be ascertained, despite diligent searching, and the parent has not  
55 come forward to claim the child; or

56 (b) The parent has, without good cause, left the child without any provision for parental  
57 support and without making arrangements to visit or communicate with the child, although able  
58 to do so;

59 (2) The child has been abused or neglected. In determining whether to terminate parental  
60 rights pursuant to this subdivision, the court shall consider and make findings on the following  
61 conditions or acts of the parent:

62 (a) A mental condition which is shown by competent evidence either to be permanent  
63 or such that there is no reasonable likelihood that the condition can be reversed and which  
64 renders the parent unable to knowingly provide the child the necessary care, custody and control;

65 (b) Chemical dependency which prevents the parent from consistently providing the  
66 necessary care, custody and control of the child and which cannot be treated so as to enable the  
67 parent to consistently provide such care, custody and control;

68 (c) A severe act or recurrent acts of physical, emotional or sexual abuse toward the child  
69 or any child in the family by the parent, including an act of incest, or by another under

70 circumstances that indicate that the parent knew or should have known that such acts were being  
71 committed toward the child or any child in the family; or

72 (d) Repeated or continuous failure by the parent, although physically or financially able,  
73 to provide the child with adequate food, clothing, shelter, or education as defined by law, or other  
74 care and control necessary for the child's physical, mental, or emotional health and development.  
75 Nothing in this subdivision shall be construed to permit discrimination on the basis of disability  
76 or disease;

77 (3) The child has been under the jurisdiction of the juvenile court for a period of one  
78 year, and the court finds that the conditions which led to the assumption of jurisdiction still  
79 persist, or conditions of a potentially harmful nature continue to exist, that there is little  
80 likelihood that those conditions will be remedied at an early date so that the child can be returned  
81 to the parent in the near future, or the continuation of the parent-child relationship greatly  
82 diminishes the child's prospects for early integration into a stable and permanent home. In  
83 determining whether to terminate parental rights under this subdivision, the court shall consider  
84 and make findings on the following:

85 (a) The terms of a social service plan entered into by the parent and the division and the  
86 extent to which the parties have made progress in complying with those terms;

87 (b) The success or failure of the efforts of the juvenile officer, the division or other  
88 agency to aid the parent on a continuing basis in adjusting his circumstances or conduct to  
89 provide a proper home for the child;

90 (c) A mental condition which is shown by competent evidence either to be permanent  
91 or such that there is no reasonable likelihood that the condition can be reversed and which  
92 renders the parent unable to knowingly provide the child the necessary care, custody and control;

93 (d) Chemical dependency which prevents the parent from consistently providing the  
94 necessary care, custody and control over the child and which cannot be treated so as to enable  
95 the parent to consistently provide such care, custody and control; or

96 (4) The parent has been found guilty or pled guilty to a felony violation of chapter 566  
97 when the child or any child in the family was a victim, or a violation of section 568.020 when  
98 the child or any child in the family was a victim. As used in this subdivision, a "child" means  
99 any person who was under eighteen years of age at the time of the crime and who resided with  
100 such parent or was related within the third degree of consanguinity or affinity to such parent; or

101 (5) The child was conceived and born as a result of an act of forcible rape **or rape in the**  
102 **first degree**. When the biological father has pled guilty to, or is convicted of, the forcible rape  
103 **or rape in the first degree** of the birth mother, such a plea or conviction shall be conclusive  
104 evidence supporting the termination of the biological father's parental rights; or

(6) The parent is unfit to be a party to the parent and child relationship because of a consistent pattern of committing a specific abuse, including but not limited to abuses as defined in section 455.010, child abuse or drug abuse before the child or of specific conditions directly relating to the parent and child relationship either of which are determined by the court to be of a duration or nature that renders the parent unable, for the reasonably foreseeable future, to care appropriately for the ongoing physical, mental or emotional needs of the child. It is presumed that a parent is unfit to be a party to the parent-child relationship upon a showing that within a three-year period immediately prior to the termination adjudication, the parent's parental rights to one or more other children were involuntarily terminated pursuant to subsection 2 or 4 of this section or subdivisions (1), (2), (3) or (4) of subsection 5 of this section or similar laws of other states.

6. The juvenile court may terminate the rights of a parent to a child upon a petition filed by the juvenile officer or the division, or in adoption cases, by a prospective parent, if the court finds that the termination is in the best interest of the child and when it appears by clear, cogent and convincing evidence that grounds exist for termination pursuant to subsection 2, 4 or 5 of this section.

7. When considering whether to terminate the parent-child relationship pursuant to subsection 2 or 4 of this section or subdivision (1), (2), (3) or (4) of subsection 5 of this section, the court shall evaluate and make findings on the following factors, when appropriate and applicable to the case:

(1) The emotional ties to the birth parent;

(2) The extent to which the parent has maintained regular visitation or other contact with the child;

(3) The extent of payment by the parent for the cost of care and maintenance of the child when financially able to do so including the time that the child is in the custody of the division or other child-placing agency;

(4) Whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within an ascertainable period of time;

(5) The parent's disinterest in or lack of commitment to the child;

(6) The conviction of the parent of a felony offense that the court finds is of such a nature that the child will be deprived of a stable home for a period of years; provided, however, that incarceration in and of itself shall not be grounds for termination of parental rights;

(7) Deliberate acts of the parent or acts of another of which the parent knew or should have known that subjects the child to a substantial risk of physical or mental harm.

8. The court may attach little or no weight to infrequent visitations, communications, or contributions. It is irrelevant in a termination proceeding that the maintenance of the parent-child relationship may serve as an inducement for the parent's rehabilitation.

9. In actions for adoption pursuant to chapter 453, the court may hear and determine the issues raised in a petition for adoption containing a prayer for termination of parental rights filed with the same effect as a petition permitted pursuant to subsection 2, 4, or 5 of this section.

10. The disability or disease of a parent shall not constitute a basis for a determination that a child is a child in need of care, for the removal of custody of a child from the parent, or for the termination of parental rights without a specific showing that there is a causal relation between the disability or disease and harm to the child.

217.010. As used in this chapter and chapter 558, unless the context clearly indicates otherwise, the following terms shall mean:

(1) "Administrative segregation unit", a cell for the segregation of offenders from the general population of a facility for relatively extensive periods of time;

(2) "Board", the board of probation and parole;

(3) "Chief administrative officer", the institutional head of any correctional facility or his designee;

(4) "Correctional center", any premises or institution where incarceration, evaluation, care, treatment, or rehabilitation is provided to persons who are under the department's authority;

(5) "Department", the department of corrections of the state of Missouri;

(6) "Director", the director of the department of corrections or his designee;

(7) "Disciplinary segregation", a cell for the segregation of offenders from the general population of a correctional center because the offender has been found to have committed a violation of a division or facility rule and other available means are inadequate to regulate the offender's behavior;

(8) "Division", a statutorily created agency within the department or an agency created by the departmental organizational plan;

(9) "Division director", the director of a division of the department or his designee;

(10) "Local volunteer community board", a board of qualified local community volunteers selected by the court for the purpose of working in partnership with the court and the department of corrections in a reparative probation program;

(11) "Nonviolent offender", any offender who is convicted of a crime other than murder in the first or second degree, involuntary manslaughter, kidnapping, **rape in the first degree**, forcible rape, **sodomy in the first degree**, forcible sodomy, robbery in the first degree or assault in the first degree;

26 (12) "Offender", a person under supervision or an inmate in the custody of the  
27 department;

28 (13) "Probation", a procedure under which a defendant found guilty of a crime upon  
29 verdict or plea is released by the court without imprisonment, subject to conditions imposed by  
30 the court and subject to the supervision of the board;

31 (14) "Volunteer", any person who, of his own free will, performs any assigned duties for  
32 the department or its divisions with no monetary or material compensation.

**217.738. 1. There is hereby established, within the department of corrections, a  
2 prisoner re-entry program to serve those male and female prisoners who have served their  
3 full sentences without early release and are locating upon release to a city not within a  
4 county.**

**5 2. Moneys for such program shall be appropriated, subject to appropriations, to  
6 the department of corrections, which shall transfer the funds from its budget to the city of  
7 St. Louis's Department of Health and Human Services, which shall administer the fund.  
8 The city shall be responsible for the issuance of a request for proposals for re-entry  
9 services to organizations with demonstrated experience in providing re-entry services,  
10 including facilitating connections to providers of housing and employment services and  
11 physical health, mental health, substance abuse, and other social services. The city and the  
12 selected contractor shall be jointly responsible to the department of corrections for  
13 ensuring that such services are provided, and they shall provide to the department all data  
14 and records necessary to oversee and measure the effectiveness of the program.**

**15 3. The director of the department of corrections is authorized to promulgate rules  
16 and regulations and to enter into such contracts as are necessary and proper for the  
17 implementation of the program.**

**18 4. Any rule or portion of a rule, as that term is defined in section 536.010, that is  
19 created under the authority delegated in this section shall become effective only if it  
20 complies with and is subject to all of the provisions of chapter 536 and, if applicable,  
21 section 536.028. This section and chapter 536 are nonseverable and if any of the powers  
22 vested with the general assembly pursuant to chapter 536 to review, to delay the effective  
23 date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
24 grant of rulemaking authority and any rule proposed or adopted after August 28, 2013,  
25 shall be invalid and void.**

**339.100. 1. The commission may, upon its own motion, and shall upon receipt of a  
2 written complaint filed by any person, investigate any real estate-related activity of a licensee  
3 licensed under sections 339.010 to 339.180 and sections 339.710 to 339.860 or an individual or  
4 entity acting as or representing themselves as a real estate licensee. In conducting such**



5 investigation, if the questioned activity or written complaint involves an affiliated licensee, the  
6 commission may forward a copy of the information received to the affiliated licensee's  
7 designated broker. The commission shall have the power to hold an investigatory hearing to  
8 determine whether there is a probability of a violation of sections 339.010 to 339.180 and  
9 sections 339.710 to 339.860. The commission shall have the power to issue a subpoena to  
10 compel the production of records and papers bearing on the complaint. The commission shall  
11 have the power to issue a subpoena and to compel any person in this state to come before the  
12 commission to offer testimony or any material specified in the subpoena. Subpoenas and  
13 subpoenas duces tecum issued pursuant to this section shall be served in the same manner as  
14 subpoenas in a criminal case. The fees and mileage of witnesses shall be the same as that  
15 allowed in the circuit court in civil cases.

16 2. The commission may cause a complaint to be filed with the administrative hearing  
17 commission as provided by the provisions of chapter 621 against any person or entity licensed  
18 under this chapter or any licensee who has failed to renew or has surrendered his or her  
19 individual or entity license for any one or any combination of the following acts:

20 (1) Failure to maintain and deposit in a special account, separate and apart from his or  
21 her personal or other business accounts, all moneys belonging to others entrusted to him or her  
22 while acting as a real estate broker or as the temporary custodian of the funds of others, until the  
23 transaction involved is consummated or terminated, unless all parties having an interest in the  
24 funds have agreed otherwise in writing;

25 (2) Making substantial misrepresentations or false promises or suppression, concealment  
26 or omission of material facts in the conduct of his or her business or pursuing a flagrant and  
27 continued course of misrepresentation through agents, salespersons, advertising or otherwise in  
28 any transaction;

29 (3) Failing within a reasonable time to account for or to remit any moneys, valuable  
30 documents or other property, coming into his or her possession, which belongs to others;

31 (4) Representing to any lender, guaranteeing agency, or any other interested party, either  
32 verbally or through the preparation of false documents, an amount in excess of the true and  
33 actual sale price of the real estate or terms differing from those actually agreed upon;

34 (5) Failure to timely deliver a duplicate original of any and all instruments to any party  
35 or parties executing the same where the instruments have been prepared by the licensee or under  
36 his or her supervision or are within his or her control, including, but not limited to, the  
37 instruments relating to the employment of the licensee or to any matter pertaining to the  
38 consummation of a lease, listing agreement or the purchase, sale, exchange or lease of property,  
39 or any type of real estate transaction in which he or she may participate as a licensee;

- 40 (6) Acting for more than one party in a transaction without the knowledge of all parties  
41 for whom he or she acts, or accepting a commission or valuable consideration for services from  
42 more than one party in a real estate transaction without the knowledge of all parties to the  
43 transaction;
- 44 (7) Paying a commission or valuable consideration to any person for acts or services  
45 performed in violation of sections 339.010 to 339.180 and sections 339.710 to 339.860;
- 46 (8) Guaranteeing or having authorized or permitted any licensee to guarantee future  
47 profits which may result from the resale of real property;
- 48 (9) Having been finally adjudicated and been found guilty of the violation of any state  
49 or federal statute which governs the sale or rental of real property or the conduct of the real estate  
50 business as defined in subsection 1 of section 339.010;
- 51 (10) Obtaining a certificate or registration of authority, permit or license for himself or  
52 herself or anyone else by false or fraudulent representation, fraud or deceit;
- 53 (11) Representing a real estate broker other than the broker with whom associated  
54 without the express written consent of the broker with whom associated;
- 55 (12) Accepting a commission or valuable consideration for the performance of any of  
56 the acts referred to in section 339.010 from any person except the broker with whom associated  
57 at the time the commission or valuable consideration was earned;
- 58 (13) Using prizes, money, gifts or other valuable consideration as inducement to secure  
59 customers or clients to purchase, lease, sell or list property when the awarding of such prizes,  
60 money, gifts or other valuable consideration is conditioned upon the purchase, lease, sale or  
61 listing; or soliciting, selling or offering for sale real property by offering free lots, or conducting  
62 lotteries or contests, or offering prizes for the purpose of influencing a purchaser or prospective  
63 purchaser of real property;
- 64 (14) Placing a sign on or advertising any property offering it for sale or rent without the  
65 written consent of the owner or his or her duly authorized agent;
- 66 (15) Violation of, or attempting to violate, directly or indirectly, or assisting or enabling  
67 any person to violate, any provision of sections 339.010 to 339.180 and sections 339.710 to  
68 339.860, or of any lawful rule adopted pursuant to sections 339.010 to 339.180 and sections  
69 339.710 to 339.860;
- 70 (16) Committing any act which would otherwise be grounds for the commission to  
71 refuse to issue a license under section 339.040;
- 72 (17) Failure to timely inform seller of all written offers unless otherwise instructed in  
73 writing by the seller;
- 74 (18) Been finally adjudicated and found guilty, or entered a plea of guilty or nolo  
75 contendere, in a criminal prosecution under the laws of this state or any other state or of the

76 United States, for any offense reasonably related to the qualifications, functions or duties of any  
77 profession licensed or regulated under this chapter, for any offense an essential element of which  
78 is fraud, dishonesty or an act of violence, or for any offense involving moral turpitude, whether  
79 or not sentence is imposed;

80 (19) Any other conduct which constitutes untrustworthy, improper or fraudulent business  
81 dealings, demonstrates bad faith or incompetence, misconduct, or gross negligence;

82 (20) Disciplinary action against the holder of a license or other right to practice any  
83 profession regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 granted  
84 by another state, territory, federal agency, or country upon grounds for which revocation,  
85 suspension, or probation is authorized in this state;

86 (21) Been found by a court of competent jurisdiction of having used any controlled  
87 substance, as defined in chapter 195, to the extent that such use impairs a person's ability to  
88 perform the work of any profession licensed or regulated by sections 339.010 to 339.180 and  
89 sections 339.710 to 339.860;

90 (22) Been finally adjudged insane or incompetent by a court of competent jurisdiction;

91 (23) Assisting or enabling any person to practice or offer to practice any profession  
92 licensed or regulated under sections 339.010 to 339.180 and sections 339.710 to 339.860 who  
93 is not registered and currently eligible to practice under sections 339.010 to 339.180 and sections  
94 339.710 to 339.860;

95 (24) Use of any advertisement or solicitation which is knowingly false, misleading or  
96 deceptive to the general public or persons to whom the advertisement or solicitation is primarily  
97 directed;

98 (25) Making any material misstatement, misrepresentation, or omission with regard to  
99 any application for licensure or license renewal. As used in this section, "material" means  
100 important information about which the commission should be informed and which may influence  
101 a licensing decision;

102 (26) Engaging in, committing, or assisting any person in engaging in or committing  
103 mortgage fraud, as defined in section 443.930.

104 3. After the filing of such complaint, the proceedings will be conducted in accordance  
105 with the provisions of law relating to the administrative hearing commission. A finding of the  
106 administrative hearing commissioner that the licensee has performed or attempted to perform one  
107 or more of the foregoing acts shall be grounds for the suspension or revocation of his license by  
108 the commission, or the placing of the licensee on probation on such terms and conditions as the  
109 real estate commission shall deem appropriate, or the imposition of a civil penalty by the  
110 commission not to exceed two thousand five hundred dollars for each offense. Each day of a  
111 continued violation shall constitute a separate offense.

112 4. The commission may prepare a digest of the decisions of the administrative hearing  
113 commission which concern complaints against licensed brokers or salespersons and cause such  
114 digests to be mailed to all licensees periodically. Such digests may also contain reports as to new  
115 or changed rules adopted by the commission and other information of significance to licensees.

116 5. Notwithstanding other provisions of this section, a broker or salesperson's license shall  
117 be revoked, or in the case of an applicant, shall not be issued, if the licensee or applicant has  
118 pleaded guilty to, entered a plea of nolo contendere to, or been found guilty of any of the  
119 following offenses or offenses of a similar nature established under the laws of this, any other  
120 state, the United States, or any other country, notwithstanding whether sentence is imposed:

121 (1) Any dangerous felony as defined under section 556.061 or murder in the first degree;

122 (2) Any of the following sexual offenses: **rape in the first degree, forcible rape, rape,**  
123 **statutory rape in the first degree, statutory rape in the second degree, rape in the second degree,**  
124 **sexual assault, sodomy in the first degree, forcible sodomy, statutory sodomy in the first degree,**  
125 **statutory sodomy in the second degree, child molestation in the first degree, child molestation**  
126 **in the second degree, sodomy in the second degree, deviate sexual assault, sexual misconduct**  
127 **involving a child, sexual misconduct in the first degree under section 566.090 as it existed**  
128 **prior to August 28, 2013, sexual abuse under section 566.100 as it existed prior to August**  
129 **28, 2013, sexual abuse in the first or second degree, enticement of a child, or attempting to**  
130 **entice a child;**

131 (3) Any of the following offenses against the family and related offenses: incest,  
132 abandonment of a child in the first degree, abandonment of a child in the second degree,  
133 endangering the welfare of a child in the first degree, abuse of a child, using a child in a sexual  
134 performance, promoting sexual performance by a child, or trafficking in children;

135 (4) Any of the following offenses involving child pornography and related offenses:  
136 promoting obscenity in the first degree, promoting obscenity in the second degree when the  
137 penalty is enhanced to a class D felony, promoting child pornography in the first degree,  
138 promoting child pornography in the second degree, possession of child pornography in the first  
139 degree, possession of child pornography in the second degree, furnishing child pornography to  
140 a minor, furnishing pornographic materials to minors, or coercing acceptance of obscene  
141 material; and

142 (5) Mortgage fraud as defined in section 570.310.

143 6. A person whose license was revoked under subsection 5 of this section may appeal  
144 such revocation to the administrative hearing commission. Notice of such appeal must be  
145 received by the administrative hearing commission within ninety days of mailing, by certified  
146 mail, the notice of revocation. Failure of a person whose license was revoked to notify the  
147 administrative hearing commission of his or her intent to appeal waives all rights to appeal the

148 revocation. Upon notice of such person's intent to appeal, a hearing shall be held before the  
149 administrative hearing commission.

556.036. 1. A prosecution for murder, **rape in the first degree**, forcible rape,  
2 **attempted rape in the first degree**, attempted forcible rape, **sodomy in the first degree**,  
3 forcible sodomy, **attempted sodomy in the first degree**, attempted forcible sodomy, or any class  
4 A felony may be commenced at any time.

5 2. Except as otherwise provided in this section, prosecutions for other offenses must be  
6 commenced within the following periods of limitation:

7 (1) For any felony, three years, except as provided in subdivision (4) of this subsection;

8 (2) For any misdemeanor, one year;

9 (3) For any infraction, six months;

10 (4) For any violation of section 569.040, when classified as a class B felony, or any  
11 violation of section 569.050 or 569.055, five years.

12 3. If the period prescribed in subsection 2 of this section has expired, a prosecution may  
13 nevertheless be commenced for:

14 (1) Any offense a material element of which is either fraud or a breach of fiduciary  
15 obligation within one year after discovery of the offense by an aggrieved party or by a person  
16 who has a legal duty to represent an aggrieved party and who is himself or herself not a party to  
17 the offense, but in no case shall this provision extend the period of limitation by more than three  
18 years. As used in this subdivision, the term "person who has a legal duty to represent an  
19 aggrieved party" shall mean the attorney general or the prosecuting or circuit attorney having  
20 jurisdiction pursuant to section 407.553, for purposes of offenses committed pursuant to sections  
21 407.511 to 407.556; and

22 (2) Any offense based upon misconduct in office by a public officer or employee at any  
23 time when the defendant is in public office or employment or within two years thereafter, but in  
24 no case shall this provision extend the period of limitation by more than three years; and

25 (3) Any offense based upon an intentional and willful fraudulent claim of child support  
26 arrearage to a public servant in the performance of his or her duties within one year after  
27 discovery of the offense, but in no case shall this provision extend the period of limitation by  
28 more than three years.

29 4. An offense is committed either when every element occurs, or, if a legislative purpose  
30 to prohibit a continuing course of conduct plainly appears, at the time when the course of  
31 conduct or the defendant's complicity therein is terminated. Time starts to run on the day after  
32 the offense is committed.

33 5. A prosecution is commenced for a misdemeanor or infraction when the information  
34 is filed and for a felony when the complaint or indictment is filed.

35           6. The period of limitation does not run:

36           (1) During any time when the accused is absent from the state, but in no case shall this  
37 provision extend the period of limitation otherwise applicable by more than three years; or

38           (2) During any time when the accused is concealing himself from justice either within  
39 or without this state; or

40           (3) During any time when a prosecution against the accused for the offense is pending  
41 in this state; or

42           (4) During any time when the accused is found to lack mental fitness to proceed pursuant  
43 to section 552.020.

          556.037. Notwithstanding the provisions of section 556.036, prosecutions for unlawful  
2 sexual offenses involving a person eighteen years of age or under must be commenced within  
3 thirty years after the victim reaches the age of eighteen unless the prosecutions are for **rape in**  
4 **the first degree**, forcible rape, **attempted rape in the first degree**, attempted forcible rape,  
5 **sodomy in the first degree**, forcible sodomy, kidnapping, **attempted sodomy in the first**  
6 **degree**, or attempted forcible sodomy in which case such prosecutions may be commenced at  
7 any time.

          556.061. In this code, unless the context requires a different definition, the following  
2 shall apply:

3           (1) “Affirmative defense” has the meaning specified in section 556.056;

4           (2) “Burden of injecting the issue” has the meaning specified in section 556.051;

5           (3) “Commercial film and photographic print processor”, any person who develops  
6 exposed photographic film into negatives, slides or prints, or who makes prints from negatives  
7 or slides, for compensation. The term commercial film and photographic print processor shall  
8 include all employees of such persons but shall not include a person who develops film or makes  
9 prints for a public agency;

10          (4) “Confinement”:

11          (a) A person is in confinement when such person is held in a place of confinement  
12 pursuant to arrest or order of a court, and remains in confinement until:

13           a. A court orders the person's release; or

14           b. The person is released on bail, bond, or recognizance, personal or otherwise; or

15           c. A public servant having the legal power and duty to confine the person authorizes his  
16 release without guard and without condition that he return to confinement;

17          (b) A person is not in confinement if:

18           a. The person is on probation or parole, temporary or otherwise; or

19           b. The person is under sentence to serve a term of confinement which is not continuous,  
20 or is serving a sentence under a work-release program, and in either such case is not being held

21 in a place of confinement or is not being held under guard by a person having the legal power  
22 and duty to transport the person to or from a place of confinement;

23 (5) “Consent”: consent or lack of consent may be expressed or implied. Assent does not  
24 constitute consent if:

25 (a) It is given by a person who lacks the mental capacity to authorize the conduct charged  
26 to constitute the offense and such mental incapacity is manifest or known to the actor; or

27 (b) It is given by a person who by reason of youth, mental disease or defect, [or]  
28 intoxication, **a drug-induced state, or any other reason** is manifestly unable or known by the  
29 actor to be unable to make a reasonable judgment as to the nature or harmfulness of the conduct  
30 charged to constitute the offense; or

31 (c) It is induced by force, duress or deception;

32 (6) “Criminal negligence” has the meaning specified in section 562.016;

33 (7) “Custody”, a person is in custody when the person has been arrested but has not been  
34 delivered to a place of confinement;

35 (8) “Dangerous felony” means the felonies of arson in the first degree, assault in the first  
36 degree, **attempted rape in the first degree if physical injury results**, attempted forcible rape  
37 if physical injury results, **attempted sodomy in the first degree if physical injury results**,  
38 attempted forcible sodomy if physical injury results, **rape in the first degree**, forcible rape,  
39 **sodomy in the first degree**, forcible sodomy, kidnapping, murder in the second degree, assault  
40 of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse  
41 in the first degree, robbery in the first degree, statutory rape in the first degree when the victim  
42 is a child less than twelve years of age at the time of the commission of the act giving rise to the  
43 offense, statutory sodomy in the first degree when the victim is a child less than twelve years of  
44 age at the time of the commission of the act giving rise to the offense, and, abuse of a child  
45 [pursuant to subdivision (2) of subsection 3 of] **if the child dies as a result of injuries**  
46 **sustained from conduct chargeable under** section 568.060, child kidnapping, and parental  
47 kidnapping committed by detaining or concealing the whereabouts of the child for not less than  
48 one hundred twenty days under section 565.153;

49 (9) “Dangerous instrument” means any instrument, article or substance, which, under  
50 the circumstances in which it is used, is readily capable of causing death or other serious physical  
51 injury;

52 (10) “Deadly weapon” means any firearm, loaded or unloaded, or any weapon from  
53 which a shot, readily capable of producing death or serious physical injury, may be discharged,  
54 or a switchblade knife, dagger, billy, blackjack or metal knuckles;

55 (11) “Felony” has the meaning specified in section 556.016;

56 (12) “Forcible compulsion” means either:

- 57 (a) Physical force that overcomes reasonable resistance; or  
58 (b) A threat, express or implied, that places a person in reasonable fear of death, serious  
59 physical injury or kidnapping of such person or another person;
- 60 (13) "Incapacitated" means that physical or mental condition, temporary or permanent,  
61 in which a person is unconscious, unable to appraise the nature of such person's conduct, or  
62 unable to communicate unwillingness to an act[. A person is not incapacitated with respect to  
63 an act committed upon such person if he or she became unconscious, unable to appraise the  
64 nature of such person's conduct or unable to communicate unwillingness to an act, after  
65 consenting to the act];
- 66 (14) "Infraction" has the meaning specified in section 556.021;
- 67 (15) "Inhabitable structure" has the meaning specified in section 569.010;
- 68 (16) "Knowingly" has the meaning specified in section 562.016;
- 69 (17) "Law enforcement officer" means any public servant having both the power and  
70 duty to make arrests for violations of the laws of this state, and federal law enforcement officers  
71 authorized to carry firearms and to make arrests for violations of the laws of the United States;
- 72 (18) "Misdemeanor" has the meaning specified in section 556.016;
- 73 (19) "Offense" means any felony, misdemeanor or infraction;
- 74 (20) "Physical injury" means physical pain, illness, or any impairment of physical  
75 condition;
- 76 (21) "Place of confinement" means any building or facility and the grounds thereof  
77 wherein a court is legally authorized to order that a person charged with or convicted of a crime  
78 be held;
- 79 (22) "Possess" or "possessed" means having actual or constructive possession of an  
80 object with knowledge of its presence. A person has actual possession if such person has the  
81 object on his or her person or within easy reach and convenient control. A person has  
82 constructive possession if such person has the power and the intention at a given time to exercise  
83 dominion or control over the object either directly or through another person or persons.  
84 Possession may also be sole or joint. If one person alone has possession of an object, possession  
85 is sole. If two or more persons share possession of an object, possession is joint;
- 86 (23) "Public servant" means any person employed in any way by a government of this  
87 state who is compensated by the government by reason of such person's employment, any person  
88 appointed to a position with any government of this state, or any person elected to a position with  
89 any government of this state. It includes, but is not limited to, legislators, jurors, members of the  
90 judiciary and law enforcement officers. It does not include witnesses;
- 91 (24) "Purposely" has the meaning specified in section 562.016;
- 92 (25) "Recklessly" has the meaning specified in section 562.016;



93 (26) "Ritual" or "ceremony" means an act or series of acts performed by two or more  
94 persons as part of an established or prescribed pattern of activity;

95 (27) "Serious emotional injury", an injury that creates a substantial risk of temporary or  
96 permanent medical or psychological damage, manifested by impairment of a behavioral,  
97 cognitive or physical condition. Serious emotional injury shall be established by testimony of  
98 qualified experts upon the reasonable expectation of probable harm to a reasonable degree of  
99 medical or psychological certainty;

100 (28) "Serious physical injury" means physical injury that creates a substantial risk of  
101 death or that causes serious disfigurement or protracted loss or impairment of the function of any  
102 part of the body;

103 (29) "Sexual conduct" means acts of human masturbation; deviate sexual intercourse;  
104 sexual intercourse; or physical contact with a person's clothed or unclothed genitals, pubic area,  
105 buttocks, or the breast of a female in an act of apparent sexual stimulation or gratification;

106 (30) "Sexual contact" means any touching of the genitals or anus of any person, or the  
107 breast of any female person, or any such touching through the clothing, for the purpose of  
108 arousing or gratifying sexual desire of any person;

109 (31) "Sexual performance", any performance, or part thereof, which includes sexual  
110 conduct by a child who is less than seventeen years of age;

111 (32) "Voluntary act" has the meaning specified in section 562.011.

558.018. 1. The court shall sentence a person [who has pleaded guilty to or] **to an**  
2 **extended term of imprisonment if it finds the defendant is a persistent sexual offender and**  
3 has been found guilty of [the felony of forcible rape, statutory rape in the first degree, forcible  
4 sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes  
5 designated in this subsection to an extended term of imprisonment if it finds the defendant is a  
6 persistent sexual offender] **attempting to commit or committing the following offenses:**

7 (1) **Statutory rape in the first degree or statutory sodomy in the first degree;**

8 (2) **Rape in the first degree or sodomy in the first degree attempted or committed**  
9 **on or after August 28, 2013;**

10 (3) **Forcible rape committed or attempted any time during the period of August 13,**  
11 **1980 to August 27, 2013;**

12 (4) **Forcible sodomy committed or attempted any time during the period of January**  
13 **1, 1995 to August 27, 2013;**

14 (5) **Rape committed or attempted before August 13, 1980;**

15 (6) **Sodomy committed or attempted before January 1, 1995.**

16 2. A "persistent sexual offender" is one who has previously [pleaded guilty to or has  
17 been found guilty of the felony of forcible rape, rape, statutory rape in the first degree, forcible

18 sodomy, sodomy, statutory sodomy in the first degree or an attempt to commit any of the crimes  
19 designated in this subsection] **been found guilty of attempting to commit or committing any**  
20 **of the offenses listed in subsection 1 of this section.**

21 3. The term of imprisonment for one found to be a persistent sexual offender shall be  
22 imprisonment for life without eligibility for probation or parole. Subsection 4 of section 558.019  
23 shall not apply to any person imprisoned under this subsection, and “imprisonment for life” shall  
24 mean imprisonment for the duration of the person's natural life.

25 4. The court shall sentence a person [who has pleaded guilty to or has] **to an extended**  
26 **term of imprisonment as provided for in this section if it finds the defendant is a predatory**  
27 **sexual offender and has** been found guilty of [the felony of forcible rape, statutory rape in the  
28 first degree, forcible sodomy, statutory sodomy in the first degree, or an attempt to commit any  
29 of the preceding crimes or] **committing or attempting to commit any of the offenses listed in**  
30 **subsection 1 of this section or committing** child molestation in the first degree when classified  
31 as a class B felony or sexual abuse when classified as a class B felony to an extended term of  
32 imprisonment as provided for in this section if it finds the defendant is a predatory sexual  
33 offender.

34 5. For purposes of this section, a “predatory sexual offender” is a person who:

35 (1) Has previously [pleaded guilty to or has] been found guilty of [the felony of forcible  
36 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the  
37 first degree, or an attempt to commit any of the preceding crimes or] **committing or attempting**  
38 **to commit any of the offenses listed in subsection 1 of this section, or committing** child  
39 molestation in the first degree when classified as a class B felony or sexual abuse when classified  
40 as a class B felony; or

41 (2) Has previously committed an act which would constitute an offense listed in  
42 subsection 4 of this section, whether or not the act resulted in a conviction; or

43 (3) Has committed an act or acts against more than one victim which would constitute  
44 an offense or offenses listed in subsection 4 of this section, whether or not the defendant was  
45 charged with an additional offense or offenses as a result of such act or acts.

46 6. A person found to be a predatory sexual offender shall be imprisoned for life with  
47 eligibility for parole, however subsection 4 of section 558.019 shall not apply to persons found  
48 to be predatory sexual offenders for the purposes of determining the minimum prison term or the  
49 length of sentence as defined or used in such subsection. Notwithstanding any other provision  
50 of law, in no event shall a person found to be a predatory sexual offender receive a final  
51 discharge from parole.

52 7. Notwithstanding any other provision of law, the court shall set the minimum time  
53 required to be served before a predatory sexual offender is eligible for parole, conditional release

54 or other early release by the department of corrections. The minimum time to be served by a  
55 person found to be a predatory sexual offender who:

56 (1) Has previously [pleaded guilty to or has] been found guilty of [the felony of forcible  
57 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the  
58 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found  
59 guilty of the felony of forcible rape, statutory rape in the first degree, forcible sodomy, statutory  
60 sodomy in the first degree or an attempt to commit any of the preceding crimes] **committing or**  
61 **attempting to commit any of the offenses listed in subsection 1 of this section and is found**  
62 **guilty of committing or attempting to commit any of the offenses listed in subsection 1 of**  
63 **this section** shall be any number of years but not less than thirty years;

64 (2) Has previously pleaded guilty to or has been found guilty of child molestation in the  
65 first degree when classified as a class B felony or sexual abuse when classified as a class B  
66 felony and [pleads guilty to or] is found guilty of attempting to commit or committing [forcible  
67 rape, statutory rape in the first degree, forcible sodomy or statutory sodomy in the first degree]  
68 **any of the offenses listed in subsection 1 of this section** shall be any number of years but not  
69 less than fifteen years;

70 (3) Has previously [pleaded guilty to or has] been found guilty of [the felony of forcible  
71 rape, rape, statutory rape in the first degree, forcible sodomy, sodomy, statutory sodomy in the  
72 first degree, or an attempt to commit any of the preceding crimes and pleads guilty to or is found  
73 guilty of] **committing or attempting to commit any of the offenses listed in subsection 1 of**  
74 **this section, or committing** child molestation in the first degree when classified as a class B  
75 felony or sexual abuse when classified as a class B felony shall be any number of years but not  
76 less than fifteen years;

77 (4) Has previously pleaded guilty to or has been found guilty of child molestation in the  
78 first degree when classified as a class B felony or sexual abuse when classified as a class B  
79 felony, and pleads guilty to or is found guilty of child molestation in the first degree when  
80 classified as a class B felony or sexual abuse when classified as a class B felony shall be any  
81 number of years but not less than fifteen years;

82 (5) Is found to be a predatory sexual offender pursuant to subdivision (2) or (3) of  
83 subsection 5 of this section shall be any number of years within the range to which the person  
84 could have been sentenced pursuant to the applicable law if the person was not found to be a  
85 predatory sexual offender.

86 8. Notwithstanding any provision of law to the contrary, the department of corrections,  
87 or any division thereof, may not furlough an individual found to be and sentenced as a persistent  
88 sexual offender or a predatory sexual offender.

558.026. 1. Multiple sentences of imprisonment shall run concurrently unless the court specifies that they shall run consecutively; except [that,] in the case of multiple sentences of imprisonment imposed for [the felony of rape, forcible rape, sodomy, forcible sodomy or] **any offense committed during or at the same time as, or multiple offenses of, the following felonies:**

(1) **Rape in the first degree, forcible rape, or rape;**

(2) **Statutory rape in the first degree;**

(3) **Sodomy in the first degree, forcible sodomy, or sodomy;**

(4) **Statutory sodomy in the first degree; or**

(5) **An attempt to commit any of the [aforesaid and for other offenses committed during or at the same time as that rape, forcible rape, sodomy, forcible sodomy or an attempt to commit any of the aforesaid, the sentences of imprisonment imposed for the other offenses may run concurrently, but] felonies listed in this subsection.**

**In such case,** the sentence of imprisonment imposed for [the felony of rape, forcible rape, sodomy, forcible sodomy] **any felony listed in this subsection** or an attempt to commit any of the aforesaid shall run consecutively to the other sentences. **The sentences imposed for any other offense may run concurrently.**

2. If a person who is on probation, parole or conditional release is sentenced to a term of imprisonment for an offense committed after the granting of probation or parole or after the start of his conditional release term, the court shall direct the manner in which the sentence or sentences imposed by the court shall run with respect to any resulting probation, parole or conditional release revocation term or terms. If the subsequent sentence to imprisonment is in another jurisdiction, the court shall specify how any resulting probation, parole or conditional release revocation term or terms shall run with respect to the foreign sentence of imprisonment.

3. A court may cause any sentence it imposes to run concurrently with a sentence an individual is serving or is to serve in another state or in a federal correctional center. If the Missouri sentence is served in another state or in a federal correctional center, subsection 4 of section 558.011 and section 217.690 shall apply as if the individual were serving his sentence within the department of corrections of the state of Missouri, except that a personal hearing before the board of probation and parole shall not be required for parole consideration.

559.115. 1. Neither probation nor parole shall be granted by the circuit court between the time the transcript on appeal from the offender's conviction has been filed in appellate court and the disposition of the appeal by such court.

2. Unless otherwise prohibited by subsection [5] **8** of this section, a circuit court only upon its own motion and not that of the state or the offender shall have the power to grant

6 probation to an offender anytime up to one hundred twenty days after such offender has been  
7 delivered to the department of corrections but not thereafter. The court may request information  
8 and a recommendation from the department concerning the offender and such offender's behavior  
9 during the period of incarceration. Except as provided in this section, the court may place the  
10 offender on probation in a program created pursuant to section 217.777, or may place the  
11 offender on probation with any other conditions authorized by law.

12         3. The court may recommend placement of an offender in a department of corrections  
13 one hundred twenty-day program under this [section] **subsection** or order such placement under  
14 subsection 4 of section 559.036. Upon the recommendation or order of the court, the department  
15 of corrections shall assess each offender to determine the appropriate **one hundred twenty-day**  
16 program in which to place the offender, [including] **which may include placement in the shock**  
17 incarceration **program** or institutional treatment **program**. When the court recommends and  
18 receives placement of an offender in a department of corrections one hundred twenty-day  
19 program, the offender shall be released on probation if the department of corrections determines  
20 that the offender has successfully completed the program except as follows. Upon successful  
21 completion of a [treatment] program **under this subsection**, the board of probation and parole  
22 shall advise the sentencing court of an offender's probationary release date thirty days prior to  
23 release. [The court shall release the offender unless such release constitutes an abuse of  
24 discretion. If the court determined that there is an abuse of discretion, the court may order the  
25 execution of the offender's sentence only after conducting a hearing on the matter within ninety  
26 to one hundred twenty days of the offender's sentence. If the court does not respond when an  
27 offender successfully completes the program, the offender shall be released on probation. Upon  
28 successful completion of a shock incarceration program, the board of probation and parole shall  
29 advise the sentencing court of an offender's probationary release date thirty days prior to release.]  
30 The court shall follow the recommendation of the department unless the court determines that  
31 probation is not appropriate. If the court determines that probation is not appropriate, the court  
32 may order the execution of the offender's sentence only after conducting a hearing on the matter  
33 within ninety to one hundred twenty days [of the offender's sentence. If the department  
34 determines that an offender is not successful in a program, then after one hundred days of  
35 incarceration the circuit court shall receive from] **from the date the offender was delivered to**  
36 **the department of corrections. If the department determines the offender has not**  
37 **successfully completed a one hundred twenty-day program under this subsection, the**  
38 **offender shall be removed from the program and the court shall be advised of the removal.**  
39 The department [of corrections a] **shall** report on the offender's participation in the program and  
40 [department] **may provide** recommendations for terms and conditions of an offender's probation.  
41 The court shall then [release the offender on probation or order the offender to remain in the

42 department to serve the sentence imposed] **have the power to grant probation or order the**  
43 **execution of the offender's sentence.**

44       4. **If the court is advised that an offender is not eligible for placement in a one**  
45 **hundred twenty-day program under subsection 3 of this section, the court shall consider**  
46 **other authorized dispositions.** If the department of corrections one hundred twenty-day  
47 program **under subsection 3 of this section** is full, the court may place the offender in a private  
48 program approved by the department of corrections or the court, the expenses of such program  
49 to be paid by the offender, or in an available program offered by another organization. If the  
50 offender is convicted of a class C or class D nonviolent felony, the court may order probation  
51 while awaiting appointment to treatment.

52       5. Except when the offender has been found to be a predatory sexual offender pursuant  
53 to section 558.018, the court shall request [that the offender be placed in the sexual offender  
54 assessment unit of the department of corrections] **the department of corrections to conduct**  
55 **a sexual offender assessment** if the defendant has pleaded guilty to or has been found guilty of  
56 sexual abuse when classified as a class B felony. **Upon completion of the assessment, the**  
57 **department shall provide to the court a report on the offender and may provide**  
58 **recommendations for terms and conditions of an offender's probation. The assessment**  
59 **shall not be considered a one hundred twenty-day program as provided under subsection**  
60 **3 of this section. The process for granting probation to an offender who has completed the**  
61 **assessment shall be as provided under subsections 2 and 6 of this section.**

62       6. Unless the offender is being granted probation pursuant to successful completion of  
63 a one hundred twenty-day program the circuit court shall notify the state in writing when the  
64 court intends to grant probation to the offender pursuant to the provisions of this section. The  
65 state may, in writing, request a hearing within ten days of receipt of the court's notification that  
66 the court intends to grant probation. Upon the state's request for a hearing, the court shall grant  
67 a hearing as soon as reasonably possible. If the state does not respond to the court's notice in  
68 writing within ten days, the court may proceed upon its own motion to grant probation.

69       7. An offender's first incarceration [for one hundred twenty days for participation in a  
70 department of corrections program] **under this section** prior to release on probation shall not be  
71 considered a previous prison commitment for the purpose of determining a minimum prison term  
72 under the provisions of section 558.019.

73       8. Notwithstanding any other provision of law, probation may not be granted pursuant  
74 to this section to offenders who have been convicted of murder in the second degree pursuant  
75 to section 565.021; forcible rape pursuant to section 566.030 **as it existed prior to August 28,**  
76 **2013; rape in the first degree under section 566.030;** forcible sodomy pursuant to section  
77 **566.060 as it existed prior to August 28, 2013; sodomy in the first degree under section**

78 **566.060**; statutory rape in the first degree pursuant to section 566.032; statutory sodomy in the  
79 first degree pursuant to section 566.062; child molestation in the first degree pursuant to section  
80 566.067 when classified as a class A felony; abuse of a child pursuant to section 568.060 when  
81 classified as a class A felony; an offender who has been found to be a predatory sexual offender  
82 pursuant to section 558.018; or any offense in which there exists a statutory prohibition against  
83 either probation or parole.

559.117. 1. The director of the department of corrections is authorized to establish, as  
2 a three-year pilot program, a mental health assessment process.

3 2. Only upon a motion filed by the prosecutor in a criminal case, the judge who is  
4 hearing the criminal case in a participating county may request that an offender be placed in the  
5 department of corrections for one hundred twenty days for a mental health assessment and for  
6 treatment if it appears that the offender has a mental disorder or mental illness such that the  
7 offender may qualify for probation including community psychiatric rehabilitation (CPR)  
8 programs and such probation is appropriate and not inconsistent with public safety. Before the  
9 judge rules upon the motion, the victim shall be given notice of such motion and the opportunity  
10 to be heard. Upon recommendation of the court, the department shall determine the offender's  
11 eligibility for the mental health assessment process.

12 3. Following this assessment and treatment period, an assessment report shall be sent to  
13 the sentencing court and the sentencing court may, if appropriate, release the offender on  
14 probation. The offender shall be supervised on probation by a state probation and parole officer,  
15 who shall work cooperatively with the department of mental health to enroll eligible offenders  
16 in community psychiatric rehabilitation (CPR) programs.

17 4. Notwithstanding any other provision of law, probation shall not be granted under this  
18 section to offenders who:

19 (1) Have been found guilty of, or plead guilty to, murder in the second degree under  
20 section 565.021;

21 (2) Have been found guilty of, or plead guilty to, **rape in the first degree under section**  
22 **566.030 or forcible rape under section 566.030 as it existed prior to August 28, 2013;**

23 (3) Have been found guilty of, or plead guilty to, statutory rape in the first degree under  
24 section 566.032;

25 (4) Have been found guilty of, or plead guilty to, **sodomy in the first degree under**  
26 **section 566.060 or forcible sodomy under section 566.060 as it existed prior to August 28,**  
27 **2013;**

28 (5) Have been found guilty of, or plead guilty to, statutory sodomy in the first degree  
29 under section 566.062;

30 (6) Have been found guilty of, or plead guilty to, child molestation in the first degree  
31 under section 566.067 when classified as a class A felony;

32 (7) Have been found to be a predatory sexual offender under section 558.018; or

33 (8) Have been found guilty of, or plead guilty to, any offense for which there exists a  
34 statutory prohibition against either probation or parole.

35 5. At the end of the three-year pilot, the director of the department of corrections and the  
36 director of the department of mental health shall jointly submit recommendations to the governor  
37 and to the general assembly by December 31, 2015, on whether to expand the process statewide.

566.020. 1. [Whenever in this chapter the criminality of conduct depends upon a  
2 victim's being incapacitated, no crime is committed if the actor reasonably believed that the  
3 victim was not incapacitated and reasonably believed that the victim consented to the act. The  
4 defendant shall have the burden of injecting the issue of belief as to capacity and consent.

5 2.] Whenever in this chapter the criminality of conduct depends upon a child being  
6 thirteen years of age or younger, it is no defense that the defendant believed the child to be older.

7 [3.] 2. Whenever in this chapter the criminality of conduct depends upon a child being  
8 under seventeen years of age, it is an affirmative defense that the defendant reasonably believed  
9 that the child was seventeen years of age or older.

10 [4.] 3. Consent is not an affirmative defense to any offense under chapter 566 if the  
11 alleged victim is less than twelve years of age.

566.030. 1. A person commits the [crime] **offense** of [forcible] **rape in the first degree**  
2 if [such person] **he or she** has sexual intercourse with another person **who is incapacitated,**  
3 **incapable of consent, or lacks the capacity to consent, or** by the use of forcible compulsion.  
4 Forcible compulsion includes the use of a substance administered without a victim's knowledge  
5 or consent which renders the victim physically or mentally impaired so as to be incapable of  
6 making an informed consent to sexual intercourse.

7 2. [Forcible] **The offense of rape in the first degree** or an attempt to commit [forcible]  
8 **rape in the first degree** is a felony for which the authorized term of imprisonment is life  
9 imprisonment or a term of years not less than five years, unless:

10 (1) In the course thereof the actor inflicts serious physical injury or displays a deadly  
11 weapon or dangerous instrument in a threatening manner or subjects the victim to sexual  
12 intercourse or deviate sexual intercourse with more than one person, in which case the authorized  
13 term of imprisonment is life imprisonment or a term of years not less than fifteen years;

14 (2) The victim is a child less than twelve years of age, in which case the required term  
15 of imprisonment is life imprisonment without eligibility for probation or parole until the  
16 [defendant] **offender** has served not less than thirty years of such sentence or unless the  
17 [defendant] **offender** has reached the age of seventy-five years and has served at least fifteen



18 years of such sentence, unless such [forcible] rape **in the first degree** is described under  
19 subdivision (3) of this subsection; or

20 (3) The victim is a child less than twelve years of age and such [forcible] rape **in the**  
21 **first degree or attempt to commit rape in the first degree** was outrageously or wantonly vile,  
22 horrible or inhumane, in that it involved torture or depravity of mind, in which case the required  
23 term of imprisonment is life imprisonment without eligibility for probation, parole or conditional  
24 release.

25 3. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has  
26 [pleaded guilty to or has] been found guilty of [forcible] rape **in the first degree or attempt to**  
27 **commit rape in the first degree** when the victim is [under the age of] **less than twelve years**  
28 **of age**, and “life imprisonment” shall mean imprisonment for the duration of a person's natural  
29 life for the purposes of this section.

30 4. No person found guilty of [or pleading guilty to forcible] rape **in the first degree** or  
31 an attempt to commit [forcible] rape **in the first degree** shall be granted a suspended imposition  
32 of sentence or suspended execution of sentence.

[566.040.] **566.031.** 1. A person commits the [crime] **offense** of [sexual assault] **rape**  
2 **in the second degree** if he **or she** has sexual intercourse with another person knowing that he  
3 **or she** does so without that person's consent.

4 2. [Sexual assault] **The offense of rape in the second degree** is a class C felony.

566.060. 1. A person commits the [crime] **offense** of [forcible] sodomy **in the first**  
2 **degree** if [such person] **he or she** has deviate sexual intercourse with another person **who is**  
3 **incapacitated, incapable of consent, or lacks the capacity to consent, or** by the use of forcible  
4 compulsion. Forcible compulsion includes the use of a substance administered without a  
5 victim's knowledge or consent which renders the victim physically or mentally impaired so as  
6 to be incapable of making an informed consent to sexual intercourse.

7 2. [Forcible] **The offense of sodomy in the first degree** or an attempt to commit  
8 [forcible] sodomy **in the first degree** is a felony for which the authorized term of imprisonment  
9 is life imprisonment or a term of years not less than five years, unless:

10 (1) In the course thereof the actor inflicts serious physical injury or displays a deadly  
11 weapon or dangerous instrument in a threatening manner or subjects the victim to sexual  
12 intercourse or deviate sexual intercourse with more than one person, in which case the authorized  
13 term of imprisonment is life imprisonment or a term of years not less than ten years; or

14 (2) The victim is a child less than twelve years [of age] **old**, in which case the required  
15 term of imprisonment is life imprisonment without eligibility for probation or parole until the  
16 [defendant] **offender** has served not less than thirty years of such sentence or unless the  
17 [defendant] **offender** has reached the age of seventy-five years and has served at least fifteen

18 years of such sentence, unless such [forcible] sodomy **in the first degree** is described under  
19 subdivision (3) of this subsection; or

20 (3) The victim is a child less than twelve years of age and such [forcible] sodomy **in the**  
21 **first degree or attempt to commit sodomy in the first degree** was outrageously or wantonly  
22 vile, horrible or inhumane, in that it involved torture or depravity of mind, in which case the  
23 required term of imprisonment is life imprisonment without eligibility for probation, parole or  
24 conditional release.

25 3. Subsection 4 of section 558.019 shall not apply to the sentence of a person who has  
26 [pleaded guilty to or has] been found guilty of [forcible] sodomy **in the first degree or an**  
27 **attempt to commit sodomy in the first degree** when the victim is [under the age of] **less than**  
28 **twelve years of age**, and “life imprisonment” shall mean imprisonment for the duration of a  
29 person's natural life for the purposes of this section.

30 4. No person found guilty of [or pleading guilty to forcible] sodomy **in the first degree**  
31 or an attempt to commit [forcible] sodomy **in the first degree** shall be granted a suspended  
32 imposition of sentence or suspended execution of sentence.

[566.070.] **566.061.** 1. A person commits the [crime of deviate sexual assault] **offense**  
2 **of sodomy in the second degree** if he **or she** has deviate sexual intercourse with another person  
3 knowing that he **or she** does so without that person's consent.

4 2. [Deviate sexual assault] **The offense of sodomy in the second degree** is a class C  
5 felony.

566.093. 1. A person commits the [crime] **offense** of sexual misconduct in the [second]  
2 **first degree** if such person:

3 (1) Exposes his or her genitals under circumstances in which he or she knows that his  
4 or her conduct is likely to cause affront or alarm;

5 (2) Has sexual contact in the presence of a third person or persons under circumstances  
6 in which he or she knows that such conduct is likely to cause affront or alarm; or

7 (3) Has sexual intercourse or deviate sexual intercourse in a public place in the presence  
8 of a third person.

9 2. **The offense of** sexual misconduct in the [second] **first degree** is a class B  
10 misdemeanor unless the [actor] **person** has previously been [convicted] **found guilty** of an  
11 offense under this chapter, in which case it is a class A misdemeanor.

566.095. 1. A person commits the [crime] **offense** of sexual misconduct in the [third]  
2 **second degree** if he **or she** solicits or requests another person to engage in sexual conduct under  
3 circumstances in which he **or she** knows that [his requests] **such request** or solicitation is likely  
4 to cause affront or alarm.

5           2. **The offense of** sexual misconduct in the [third] **second** degree is a class C  
6 misdemeanor.

          566.100. 1. A person commits the [crime] **offense** of sexual abuse **in the first degree**  
2 if he **or she** subjects another person to sexual contact **when that person is incapacitated,**  
3 **incapable of consent, or lacks the capacity to consent, or** by the use of forcible compulsion.

4           2. **The offense of** sexual abuse **in the first degree** is a class C felony unless in the course  
5 thereof the actor inflicts serious physical injury or displays a deadly weapon or dangerous  
6 instrument in a threatening manner or subjects the victim to sexual contact with more than one  
7 person or the victim is less than fourteen years of age, in which case [the crime] **it** is a class B  
8 felony.

          [566.090.] **566.101.** 1. A person commits the [crime] **offense** of sexual [misconduct]  
2 **abuse** in the [first] **second** degree if [such person] **he or she** purposely subjects another person  
3 to sexual contact without that person's consent.

4           2. **The offense of** sexual [misconduct] **abuse** in the [first] **second** degree is a class A  
5 misdemeanor, unless the actor has previously been convicted of an offense under this chapter or  
6 unless in the course thereof the actor displays a deadly weapon in a threatening manner or the  
7 offense is committed as a part of a ritual or ceremony, in which case it is a class D felony.

          566.224. No prosecuting or circuit attorney, peace officer, governmental official, or  
2 employee of a law enforcement agency shall request or require a victim of **rape in the second**  
3 **degree under section 566.031,** sexual assault under section 566.040 **as it existed prior to**  
4 **August 28, 2013, rape in the first degree under section 566.030,** or forcible rape under section  
5 566.030 **as it existed prior to August 28, 2013** to submit to any polygraph test or psychological  
6 stress evaluator exam as a condition for proceeding with a criminal investigation of such crime.

          566.226. 1. After August 28, 2007, any information contained in any court record,  
2 whether written or published on the internet, that could be used to identify or locate any victim  
3 of sexual assault, domestic assault, stalking, **rape in the first or second degree,** or forcible rape  
4 shall be closed and redacted from such record prior to disclosure to the public. Identifying  
5 information shall include the name, home or temporary address, telephone number, Social  
6 Security number or physical characteristics.

7           2. If the court determines that a person or entity who is requesting identifying  
8 information of a victim has a legitimate interest in obtaining such information, the court may  
9 allow access to the information, but only if the court determines that disclosure to the person or  
10 entity would not compromise the welfare or safety of such victim.

11          3. Notwithstanding the provisions of subsection 1 of this section, the judge presiding  
12 over a sexual assault, domestic assault, stalking, [or] forcible rape, **or rape in the first or second**  
13 **degree** case shall have the discretion to publicly disclose identifying information regarding the

14 defendant which could be used to identify or locate the victim of the crime. The victim may  
15 provide a statement to the court regarding whether he or she desires such information to remain  
16 closed. When making the decision to disclose such information, the judge shall consider the  
17 welfare and safety of the victim and any statement to the court received from the victim  
18 regarding the disclosure.

589.015. As used in sections 589.010 to 589.040:

2 (1) The term “center” shall mean the state center for the prevention and control of sexual  
3 assault established pursuant to section 589.030;

4 (2) The term “sexual assault” shall include:

5 (a) The acts of rape **in the first or second degree**, forcible rape, **rape**, statutory rape in  
6 the first degree, statutory rape in the second degree, sexual assault, sodomy **in the first or**  
7 **second degree**, forcible sodomy, **sodomy**, statutory sodomy in the first degree, statutory sodomy  
8 in the second degree, child molestation in the first degree, child molestation in the second degree,  
9 deviate sexual assault, sexual misconduct and sexual abuse, or attempts to commit any of the  
10 aforesaid, as these acts are defined in chapter 566;

11 (b) The act of incest, as this act is defined in section 568.020;

12 (c) The act of abuse of a child, as defined in subdivision (1) of subsection 1 of section  
13 568.060, which involves sexual contact, and as defined in subdivision (2) of subsection 1 of  
14 section 568.060;

15 (d) The act of use of a child in a sexual performance as defined in section 568.080; and

16 (e) The act of enticement of a child, as defined in section 566.151, or any attempt to  
17 commit such act.

589.400. 1. Sections 589.400 to 589.425 shall apply to:

2 (1) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found  
3 guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring  
4 to commit a felony offense of chapter 566, including sexual trafficking of a child and sexual  
5 trafficking of a child under the age of twelve, or any offense of chapter 566 where the victim is  
6 a minor, unless such person is [exempted] exempt from registering under subsection [8] 9 of this  
7 section; or

8 (2) Any person who, since July 1, 1979, has been or is hereafter convicted of, been found  
9 guilty of, or pled guilty or nolo contendere to committing, attempting to commit, or conspiring  
10 to commit one or more of the following offenses: kidnapping when the victim was a child and  
11 the defendant was not a parent or guardian of the child; abuse of a child under section 568.060  
12 when such abuse is sexual in nature; felonious restraint when the victim was a child and the  
13 defendant is not a parent or guardian of the child; sexual contact or sexual intercourse with a  
14 resident of a nursing home, under section 565.200; endangering the welfare of a child under

15 section 568.045 when the endangerment is sexual in nature; genital mutilation of a female child,  
16 under section 568.065; promoting prostitution in the first degree; promoting prostitution in the  
17 second degree; promoting prostitution in the third degree; sexual exploitation of a minor;  
18 promoting child pornography in the first degree; promoting child pornography in the second  
19 degree; possession of child pornography; furnishing pornographic material to minors; public  
20 display of explicit sexual material; coercing acceptance of obscene material; promoting obscenity  
21 in the first degree; promoting pornography for minors or obscenity in the second degree; incest;  
22 use of a child in a sexual performance; or promoting sexual performance by a child; or

23 (3) Any person who, since July 1, 1979, has been committed to the department of mental  
24 health as a criminal sexual psychopath; or

25 (4) Any person who, since July 1, 1979, has been found not guilty as a result of mental  
26 disease or defect of any offense listed in subdivision (1) or (2) of this subsection; or

27 (5) Any juvenile certified as an adult and transferred to a court of general jurisdiction  
28 who has been convicted of, found guilty of, or has pleaded guilty or nolo contendere to  
29 committing, attempting to commit, or conspiring to commit a felony under chapter 566 which  
30 is equal to or more severe than aggravated sexual abuse under 18 U.S.C. Section 2241, which  
31 shall include any attempt or conspiracy to commit such offense;

32 (6) Any juvenile fourteen years of age or older at the time of the offense who has been  
33 adjudicated for an offense which is equal to or more severe than aggravated sexual abuse under  
34 18 U.S.C. Section 2241, which shall include any attempt or conspiracy to commit such offense;

35 (7) Any person who is a resident of this state who has, since July 1, 1979, or is hereafter  
36 convicted of, been found guilty of, or pled guilty to or nolo contendere in any other state, or  
37 foreign country, or under federal, tribal, or military jurisdiction to committing, attempting to  
38 commit, or conspiring to commit an offense which, if committed in this state, would be a  
39 violation of chapter 566, or a felony violation of any offense listed in subdivision (2) of this  
40 subsection or has been or is required to register in another state or has been or is required to  
41 register under tribal, federal, or military law **unless such person's name has been removed**  
42 **from the registry pursuant to subsection 4 of this section and such person has not been**  
43 **found guilty of a subsequent offense requiring registration under this section; or**

44 (8) Any person who has been or is required to register in another state or has been or is  
45 required to register under tribal, federal, or military law and who works or attends an educational  
46 institution, whether public or private in nature, including any secondary school, trade school,  
47 professional school, or institution of higher education on a full-time or on a part-time basis or  
48 has a temporary residence in Missouri **unless such person's name has been removed from the**  
49 **registry pursuant to subsection 4 of this section and such person has not been found guilty**

50 **of a subsequent offense requiring registration under this section.** "Part-time" in this  
51 subdivision means for more than seven days in any twelve-month period.

52 2. Any person to whom sections 589.400 to 589.425 apply shall, within three days of  
53 conviction, release from incarceration, or placement upon probation, register with the chief law  
54 enforcement official of the county or city not within a county in which such person resides unless  
55 such person has already registered in that county for the same offense. Any person to whom  
56 sections 589.400 to 589.425 apply if not currently registered in their county of residence shall  
57 register with the chief law enforcement official of such county or city not within a county within  
58 three days. The chief law enforcement official shall forward a copy of the registration form  
59 required by section 589.407 to a city, town, village, or campus law enforcement agency located  
60 within the county of the chief law enforcement official, if so requested. Such request may ask  
61 the chief law enforcement official to forward copies of all registration forms filed with such  
62 official. The chief law enforcement official may forward a copy of such registration form to any  
63 city, town, village, or campus law enforcement agency, if so requested.

64 3. The registration requirements of sections 589.400 through 589.425 are lifetime  
65 registration requirements unless:

66 (1) All offenses requiring registration are reversed, vacated or set aside;

67 (2) The registrant is pardoned of the offenses requiring registration;

68 (3) The registrant is no longer required to register and his or her name shall be removed  
69 from the registry under the provisions of subsection 6 of this section; or

70 (4) The registrant may petition the court for removal or exemption from the registry  
71 under subsection [7 or 8] **4, 8, or 9** of this section and the court orders the removal or exemption  
72 of such person from the registry.

73 4. **Any person on the sexual offender registry under subdivision (5) or (6) of**  
74 **subsection 1 of this section may file a petition for removal from the registry after five years**  
75 **have passed from the later of the date the offender was found guilty of the offense that**  
76 **requires registration or the date the person was released from custody for such offense.**  
77 **The petition may be filed in the circuit court in the county in which the person was found**  
78 **guilty of the offense, or, if the offense was adjudicated outside the state, the person may file**  
79 **a petition in the circuit court in the county in which the person resides after such person**  
80 **has been a resident of Missouri for at least five years prior to filing the petition. The court**  
81 **shall grant the petition and enter an order directing the removal of the petitioner's name**  
82 **and information from the sexual offender registry unless it finds that the petitioner, in this**  
83 **state or any other state, territory, the District of Columbia, foreign country, or federal,**  
84 **tribal, or military jurisdiction:**

85 (1) **Has been adjudicated of, or has charges pending, for failure to register;**

86           (2) Has been adjudicated of, or has charges pending for, any additional offense  
87 which would require registration as a sexual offender under this section, or section  
88 211.425, and which occurred after the date such person initially registered as a sexual  
89 offender;

90           (3) Has not successfully completed any required period of supervised release,  
91 probation, or parole; or

92           (4) If the petitioner's offense was adjudicated outside the state, such person has not  
93 been a resident of Missouri for at least five years prior to filing the petition.

94

95 If the petition was not granted solely because the petitioner had charges pending for failure  
96 to register or an additional offense that would require registration and such charges are  
97 subsequently dismissed or the petitioner is acquitted of the pending charges, the person  
98 may file a new petition at any time after the dismissal or acquittal of the pending charges.  
99 If the denial is based on a finding of guilt for an offense that would require registration  
100 under this section, or section 211.425, no successive petition shall be filed. If the denial is  
101 based on a finding of guilt for failure to register, the person may file a new petition after  
102 five years have passed from the date the person was found guilty for failure to register. If  
103 the denial is based on the petitioner not completing a required period of supervised release,  
104 probation, or parole and the petitioner subsequently completes the period of supervised  
105 release, probation, or parole, then the person may file a new petition at any time after  
106 completing such period of release, probation, or parole. If the petition is denied because  
107 the petitioner's offense was adjudicated outside the state and the petitioner has not been  
108 a resident of Missouri for at least five years prior to filing the petition, such person may file  
109 a new petition at any time after residing in the state for the required five-year period.  
110 Beginning August 28, 2013, information regarding any person whose offense was  
111 committed in Missouri, or in any other state, when such person was under eighteen years  
112 of age shall be immediately removed from the highway patrol's website created under  
113 section 43.650 and any local law enforcement website allowed under section 589.402  
114 regardless of whether such person has a petition granted under this subsection.

115           5. For processing an initial sex offender registration the chief law enforcement officer  
116 of the county or city not within a county may charge the offender registering a fee of up to ten  
117 dollars.

118           [5.] 6. For processing any change in registration required pursuant to section 589.414 the  
119 chief law enforcement official of the county or city not within a county may charge the person  
120 changing their registration a fee of five dollars for each change made after the initial registration.

121           [6.] 7. Any person currently on the sexual offender registry for being convicted of, found

guilty of, or pleading guilty or nolo contendere to committing, attempting to commit, or conspiring to commit, felonious restraint when the victim was a child and he or she was the parent or guardian of the child, nonsexual child abuse that was committed under section 568.060, or kidnapping when the victim was a child and he or she was the parent or guardian of the child shall be removed from the registry. However, such person shall remain on the sexual offender registry for any other offense for which he or she is required to register under sections 589.400 to 589.425.

[7.] 8. Any person currently on the sexual offender registry for having been convicted of, found guilty of, or having pleaded guilty or nolo contendere to committing, attempting to commit, or conspiring to commit promoting prostitution in the second degree, promoting prostitution in the third degree, public display of explicit sexual material, statutory rape in the second degree, and no physical force or threat of physical force was used in the commission of the crime may file a petition in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to committing, attempting to commit, or conspiring to commit the offense or offenses for the removal of his or her name from the sexual offender registry after ten years have passed from the date he or she was required to register.

[8.] 9. Effective August 28, 2009, any person on the sexual offender registry for having been convicted of, found guilty of, or having pled guilty or nolo contendere to an offense included under subsection 1 of this section may file a petition after two years have passed from the date the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses in the civil division of the circuit court in the county in which the offender was convicted or found guilty of or pled guilty or nolo contendere to the offense or offenses for removal of his or her name from the registry if such person was nineteen years of age or younger and the victim was thirteen years of age or older at the time of the offense and no physical force or threat of physical force was used in the commission of the offense, unless such person meets the qualifications of this subsection, and such person was eighteen years of age or younger at the time of the offense, and is convicted or found guilty of or pleads guilty or nolo contendere to a violation of section 566.068, 566.090, 566.093, or 566.095 when such offense is a misdemeanor, in which case, such person may immediately file a petition to remove or exempt his or her name from the registry upon his or her conviction or finding or pleading of guilty or nolo contendere to such offense.

[9.] 10. (1) The court may grant such relief under subsection [7] 8 or [8] 9 of this section if such person demonstrates to the court that he or she has complied with the provisions of this section and is not a current or potential threat to public safety. The prosecuting attorney in the circuit court in which the petition is filed must be given notice, by the person seeking removal



158 or exemption from the registry, of the petition to present evidence in opposition to the requested  
159 relief or may otherwise demonstrate the reasons why the petition should be denied. Failure of  
160 the person seeking removal or exemption from the registry to notify the prosecuting attorney of  
161 the petition shall result in an automatic denial of such person's petition. If the prosecuting  
162 attorney is notified of the petition he or she shall make reasonable efforts to notify the victim of  
163 the crime for which the person was required to register of the petition and the dates and times  
164 of any hearings or other proceedings in connection with that petition.

165 (2) If the petition is denied, such person shall wait at least twelve months before  
166 petitioning the court again. If the court finds that the petitioner is entitled to relief, which  
167 removes or exempts such person's name from the registry, a certified copy of the written findings  
168 or order shall be forwarded by the court to the chief law enforcement official having jurisdiction  
169 over the offender and to the Missouri state highway patrol in order to have such person's name  
170 removed or exempted from the registry.

171 [10.] 11. Any nonresident worker or nonresident student shall register for the duration  
172 of such person's employment or attendance at any school of higher education and is not entitled  
173 to relief under the provisions of subsection [9] 10 of this section. Any registered offender from  
174 another state who has a temporary residence in this state and resides more than seven days in a  
175 twelve-month period shall register for the duration of such person's temporary residency and is  
176 not entitled to the provisions of subsection [9] 10 of this section.

177 [11.] 12. Any person whose name is removed or exempted from the sexual offender  
178 registry under subsection [7] 8 or [8] 9 of this section shall no longer be required to fulfill the  
179 registration requirements of sections 589.400 to 589.425, unless such person is required to  
180 register for committing another offense after being removed from the registry.

589.402. 1. The chief law enforcement officer of the county or city not within a county  
2 may maintain a [web page] **website** on the internet, which shall be open to the public and shall  
3 include a registered sexual offender search capability.

4 2. The registered sexual offender search shall make it possible for any person using the  
5 internet to search for and find the information specified in subsection 3 of this section, if known,  
6 on offenders registered in this state pursuant to sections 589.400 to 589.425, except that only  
7 persons who have been convicted of, found guilty of, or plead guilty to committing, attempting  
8 to commit, or conspiring to commit sexual offenses shall be included on this website.

9 3. Only the information listed in this subsection shall be provided to the public in the  
10 registered sexual offender search:

- 11 (1) The name and any known aliases of the offender;
- 12 (2) The date of birth and any known alias dates of birth of the offender;
- 13 (3) A physical description of the offender;

14 (4) The residence, temporary, work, and school addresses of the offender, including the  
15 street address, city, county, state, and zip code;

16 (5) Any photographs of the offender;

17 (6) A physical description of the offender's vehicles, including the year, make, model,  
18 color, and license plate number;

19 (7) The nature and dates of all offenses qualifying the offender to register;

20 (8) The date on which the offender was released from the department of mental health,  
21 prison, or jail, or placed on parole, supervised release, or probation for the offenses qualifying  
22 the offender to register;

23 (9) Compliance status of the offender with the provisions of sections 589.400 to  
24 589.425; and

25 (10) Any online identifiers, as defined in section 43.651, used by the person. Such  
26 online identifiers shall not be included in the general profile of an offender on the [web page]  
27 **website** and shall only be available to a member of the public by a search using the specific  
28 online identifier to determine if a match exists with a registered offender.

29 4. The chief law enforcement officer of any county or city not within a county may  
30 publish in any newspaper distributed in the county or city not within a county the sexual offender  
31 information provided under subsection 3 of this section for any offender residing in the county  
32 or city not within a county.

33 **5. Beginning August 28, 2013, no offender's information whose offense was**  
34 **committed in the state of Missouri, or in any other state, when such offender was a juvenile**  
35 **shall be listed on the website. Effective August 28, 2013, any offender currently on the**  
36 **website who was required to register as a sex offender under section 589.400, based on an**  
37 **offense that occurred when such offender was a juvenile shall be immediately removed**  
38 **from the website. For purposes of this subsection, "juvenile" shall mean any person under**  
39 **eighteen years of age.**

590.700. 1. As used in this section, the following terms shall mean:

2 (1) "Custodial interrogation", the questioning of a person under arrest, who is no longer  
3 at the scene of the crime, by a member of a law enforcement agency along with the answers and  
4 other statements of the person questioned. "Custodial interrogation" shall not include:

5 (a) A situation in which a person voluntarily agrees to meet with a member of a law  
6 enforcement agency;

7 (b) A detention by a law enforcement agency that has not risen to the level of an arrest;

8 (c) Questioning that is routinely asked during the processing of the arrest of the suspect;

9 (d) Questioning pursuant to an alcohol influence report;

10 (e) Questioning during the transportation of a suspect;

11 (2) "Recorded" and "recording", any form of audiotape, videotape, motion picture, or  
12 digital recording.

13 2. All custodial interrogations of persons suspected of committing or attempting to  
14 commit murder in the first degree, murder in the second degree, assault in the first degree, assault  
15 of a law enforcement officer in the first degree, domestic assault in the first degree, elder abuse  
16 in the first degree, robbery in the first degree, arson in the first degree, **rape in the first degree,**  
17 **forcible rape, sodomy in the first degree,** forcible sodomy, kidnapping, statutory rape in the first  
18 degree, statutory sodomy in the first degree, child abuse, or child kidnapping shall be recorded  
19 when feasible.

20 3. Law enforcement agencies may record an interrogation in any circumstance with or  
21 without the knowledge or consent of a suspect, but they shall not be required to record an  
22 interrogation under subsection 2 of this section:

23 (1) If the suspect requests that the interrogation not be recorded;

24 (2) If the interrogation occurs outside the state of Missouri;

25 (3) If exigent public safety circumstances prevent recording;

26 (4) To the extent the suspect makes spontaneous statements;

27 (5) If the recording equipment fails; or

28 (6) If recording equipment is not available at the location where the interrogation takes  
29 place.

30 4. Each law enforcement agency shall adopt a written policy to record custodial  
31 interrogations of persons suspected of committing or attempting to commit the felony crimes  
32 described in subsection 2 of this section.

33 5. If a law enforcement agency fails to comply with the provisions of this section, the  
34 governor may withhold any state funds appropriated to the noncompliant law enforcement  
35 agency if the governor finds that the agency did not act in good faith in attempting to comply  
36 with the provisions of this section.

37 6. Nothing in this section shall be construed as a ground to exclude evidence, and a  
38 violation of this section shall not have impact other than that provided for in subsection 5 of this  
39 section. Compliance or noncompliance with this section shall not be admitted as evidence,  
40 argued, referenced, considered or questioned during a criminal trial.

41 7. Nothing contained in this section shall be construed to authorize, create, or imply a  
42 private cause of action."

632.480. As used in sections 632.480 to 632.513, the following terms mean:

2 (1) "Agency with jurisdiction", the department of corrections or the department of  
3 mental health;

4 (2) "Mental abnormality", a congenital or acquired condition affecting the emotional or  
5 volitional capacity which predisposes the person to commit sexually violent offenses in a degree  
6 constituting such person a menace to the health and safety of others;

7 (3) "Predatory", acts directed towards individuals, including family members, for the  
8 primary purpose of victimization;

9 (4) "Sexually violent offense", the felonies of **rape in the first degree**, forcible rape,  
10 rape, statutory rape in the first degree, **sodomy in the first degree**, forcible sodomy, sodomy,  
11 statutory sodomy in the first degree, or an attempt to commit any of the preceding crimes, or  
12 child molestation in the first or second degree, sexual abuse, **sexual abuse in the first degree**,  
13 **rape in the second degree**, sexual assault, **sexual assault in the first degree**, **sodomy in the**  
14 **second degree**, deviate sexual assault, **deviate sexual assault in the first degree**, or the act of  
15 abuse of a child [as defined in subdivision (1) of subsection 1 of section 568.060 which involves  
16 sexual contact, and as defined in subdivision (2) of subsection 1 of section 568.060] **involving**  
17 **either sexual contact, a prohibited sexual act, sexual abuse, or sexual exploitation of a**  
18 **minor, or any felony offense that contains elements substantially similar to the offenses**  
19 **listed above;**

20 (5) "Sexually violent predator", any person who suffers from a mental abnormality  
21 which makes the person more likely than not to engage in predatory acts of sexual violence if not  
22 confined in a secure facility and who:

23 (a) Has pled guilty or been found guilty, or been found not guilty by reason of mental  
24 disease or defect pursuant to section 552.030 of a sexually violent offense; or

25 (b) Has been committed as a criminal sexual psychopath pursuant to section 632.475 and  
26 statutes in effect before August 13, 1980.

632.498. 1. Each person committed pursuant to sections 632.480 to 632.513 shall have  
2 a current examination of the person's mental condition made once every year by the director of  
3 the department of mental health or designee. The yearly report shall be provided to the court that  
4 committed the person pursuant to sections 632.480 to 632.513. The court shall conduct an  
5 annual review of the status of the committed person. The court shall not conduct an annual  
6 review of a person's status if he or she has been conditionally released pursuant to section  
7 632.505.

8 2. Nothing contained in sections 632.480 to 632.513 shall prohibit the person from  
9 otherwise petitioning the court for release. The director of the department of mental health shall  
10 provide the committed person who has not been conditionally released with an annual written  
11 notice of the person's right to petition the court for release over the director's objection. The  
12 notice shall contain a waiver of rights. The director shall forward the notice and waiver form  
13 to the court with the annual report.

14           3. If the committed person petitions the court for conditional release over the director's  
15 objection, the petition shall be served upon the court that committed the person, the **prosecuting**  
16 **attorney of the jurisdiction into which the committed person is to be released**, the director  
17 of the department of mental health, the head of the facility housing the person, and the attorney  
18 general.

19           4. The committed person shall have a right to have an attorney represent the person at  
20 the hearing but the person is not entitled to be present at the hearing. If the court at the hearing  
21 determines by a preponderance of the evidence that the person no longer suffers from a mental  
22 abnormality that makes the person likely to engage in acts of sexual violence if released, then the  
23 court shall set a trial on the issue.

24           5. The trial shall be governed by the following provisions:

25           (1) The committed person shall be entitled to be present and entitled to the benefit of all  
26 constitutional protections that were afforded the person at the initial commitment proceeding;

27           (2) The attorney general shall represent the state and shall have a right to a jury trial and  
28 to have the committed person evaluated by a psychiatrist or psychologist not employed by the  
29 department of mental health or the department of corrections. In addition, the person may be  
30 examined by a consenting psychiatrist or psychologist of the person's choice at the person's own  
31 expense;

32           (3) The burden of proof at the trial shall be upon the state to prove by clear and  
33 convincing evidence that the committed person's mental abnormality remains such that the  
34 person is not safe to be at large and if released is likely to engage in acts of sexual violence. If  
35 such determination is made by a jury, the verdict must be unanimous;

36           (4) If the court or jury finds that the person's mental abnormality remains such that the  
37 person is not safe to be at large and if released is likely to engage in acts of sexual violence, the  
38 person shall remain in the custody of the department of mental health in a secure facility  
39 designated by the director of the department of mental health. If the court or jury finds that the  
40 person's mental abnormality has so changed that the person is not likely to commit acts of sexual  
41 violence if released, the person shall be conditionally released as provided in section 632.505.

632.505. 1. Upon determination by a court or jury that the person's mental abnormality  
2 has so changed that the person is not likely to commit acts of sexual violence if released, the  
3 court shall place the person on conditional release pursuant to the terms of this section. The  
4 primary purpose of conditional release is to provide outpatient treatment and monitoring to  
5 prevent the person's condition from deteriorating to the degree that the person would need to be  
6 returned to a secure facility designated by the director of the department of mental health.

7           2. The department of mental health is authorized to enter into an interagency agreement  
8 with the department of corrections for the supervision of persons granted a conditional release

9 by the court. In conjunction with the department of corrections, the department of mental health  
10 shall develop a conditional release plan which contains appropriate conditions for the person to  
11 be released. The plan shall address the person's need for supervision, counseling, medication,  
12 community support services, residential services, vocational services, and alcohol and drug  
13 treatment. The department of mental health shall submit the proposed plan for conditional  
14 release to the court.

15 3. The court shall review the plan and determine the conditions that it deems necessary  
16 to meet the person's need for treatment and supervision and to protect the safety of the  
17 public. The court shall order that the person shall be subject to the following conditions and  
18 other conditions as deemed necessary:

19 (1) Maintain a residence approved by the department of mental health and not change  
20 residence unless approved by the department of mental health;

21 (2) Maintain employment unless engaged in other structured activity approved by the  
22 department of mental health;

23 (3) Obey all federal and state laws;

24 (4) Not possess a firearm or dangerous weapon;

25 (5) Not be employed or voluntarily participate in an activity that involves contact with  
26 children without approval of the department of mental health;

27 (6) Not consume alcohol or use a controlled substance except as prescribed by a treating  
28 physician and to submit, upon request, to any procedure designed to test for alcohol or controlled  
29 substance use;

30 (7) Not associate with any person who has been convicted of a felony unless approved  
31 by the department of mental health;

32 (8) Not leave the state without permission of the department of mental health;

33 (9) Not have contact with specific persons, including but not limited to, the victim or  
34 victim's family, as directed by the department of mental health;

35 (10) Not have any contact with any child without specific approval by the department  
36 of mental health;

37 (11) Not possess material that is pornographic, sexually oriented, or sexually  
38 stimulating;

39 (12) Not enter a business providing sexually stimulating or sexually oriented  
40 entertainment;

41 (13) Submit to a polygraph, plethysmograph, or other electronic or behavioral  
42 monitoring or assessment;

43 (14) Submit to electronic monitoring which may be based on a global positioning system  
44 or other technology which identifies and records a person's location at all times;

- 45 (15) Attend and fully participate in assessment and treatment as directed by the  
46 department of mental health;
- 47 (16) Take all psychiatric medications as prescribed by a treating physician;
- 48 (17) Authorize the department of mental health to access and obtain copies of  
49 confidential records pertaining to evaluation, counseling, treatment, and other such records and  
50 provide the consent necessary for the release of any such records;
- 51 (18) Pay fees to the department of mental health and the department of corrections to  
52 cover the costs of services and monitoring;
- 53 (19) Report to or appear in person as directed by the department of mental health and  
54 the department of corrections, and to follow all directives of such departments;
- 55 (20) Comply with any registration requirements under sections 589.400 to 589.425; and  
56 (21) Comply with any other conditions that the court determines to be in the best interest  
57 of the person and society.
- 58 4. The court shall provide a copy of the order containing the conditions of release to the  
59 person, the attorney general, the department of mental health, the head of the facility housing the  
60 person, and the department of corrections.
- 61 5. A person who is conditionally released and supervised by a probation and parole  
62 officer employed by the department of corrections remains under the control, care, and treatment  
63 of the department of mental health.
- 64 6. The court may modify conditions of release upon its own motion or upon the petition  
65 of the department of mental health, the department of corrections, or the person on conditional  
66 release.
- 67 7. The following provisions shall apply to violations of conditional release:
- 68 (1) If any probation and parole officer has reasonable cause to believe that a person on  
69 conditional release has violated a condition of release or that the person is no longer a proper  
70 subject for conditional release, the officer may issue a warrant for the person's arrest. The  
71 warrant shall contain a brief recitation of the facts supporting the officer's belief. The warrant  
72 shall direct any peace officer to take the person into custody immediately so that the person can  
73 be returned to a secure facility;
- 74 (2) If the director of the department of mental health or the director's designee has  
75 reasonable cause to believe that a person on conditional release has violated a condition of  
76 release or that the person is no longer a proper subject for conditional release, the director or the  
77 director's designee may request that a peace officer take the person into custody immediately, or  
78 request that a probation and parole officer or the court which ordered the release issue a warrant  
79 for the person's arrest so that the person can be returned to a secure facility;

80           (3) At any time during the period of a conditional release, the court which ordered the  
81 release may issue a notice to the released person to appear to answer a charge of a violation of  
82 the terms of the release and the court may issue a warrant of arrest for the violation. Such notice  
83 shall be personally served upon the released person. The warrant shall authorize the return of  
84 the released person to the custody of the court or to the custody of the director of mental health  
85 or the director's designee;

86           (4) No peace officer responsible for apprehending and returning the person to the facility  
87 upon the request of the director of the department of mental health or the director's designee or  
88 a probation and parole officer shall be civilly liable for apprehending or transporting such person  
89 to the facility so long as such duties were performed in good faith and without negligence;

90           (5) The department of mental health shall promptly notify the court that the person has  
91 been apprehended and returned to a secure facility;

92           (6) Within seven days of the person's return to a secure facility, the department of mental  
93 health must either request that the attorney general file a petition to revoke the person's  
94 conditional release or continue the person on conditional release;

95           (7) If a petition to revoke conditional release is filed, the person shall remain in custody  
96 until a hearing is held on the petition. The hearing shall be given priority on the court's docket  
97 upon hearing the evidence, the court finds by preponderance of the evidence that the person has  
98 violated a condition of release and that the violation of the condition was sufficient to render the  
99 person no longer suitable for conditional release, the court shall revoke the conditional release  
100 and order the person returned to a secure facility designated by the director of the department of  
101 mental health. If the court determines that revocation is not required, the court may modify or  
102 increase the conditions of release or order the person's release on the existing conditions of  
103 release;

104           (8) A person whose conditional release has been revoked may petition the court for  
105 subsequent release pursuant to sections 632.498, 632.501, and 632.504 no sooner than six  
106 months after the person's return to a secure facility.

107           8. The department of mental health may enter into agreements with the department of  
108 corrections and other departments and may enter into contracts with private entities for the  
109 purpose of supervising a person on conditional release.

110           9. The department of mental health and the department of corrections may require a  
111 person on conditional release to pay a reasonable fee to cover the costs of providing services and  
112 monitoring while the person is released. Each department may adopt rules with respect to  
113 establishing, waiving, collecting, and using fees. Any rule or portion of a rule, as that term is  
114 defined in section 536.010, that is created under the authority delegated in this section shall  
115 become effective only if it complies with and is subject to all of the provisions of chapter 536



116 and, if applicable, section 536.028. This section and chapter 536 are nonseverable and if any of  
117 the powers vested with the general assembly pursuant to chapter 536 to review, to delay the  
118 effective date, or to disapprove and annul a rule are subsequently held unconstitutional, then the  
119 grant of rulemaking authority and any rule proposed or adopted after August 28, 2006, shall be  
120 invalid and void.

121       10. In the event a person on conditional release escapes from custody, the department  
122 of mental health shall notify the court, the department of corrections, the attorney general, the  
123 chief law enforcement officer of the county or city not within a county from where the person  
124 escaped or absconded, and any other persons necessary to protect the safety of the public or to  
125 assist in the apprehension of the person. The attorney general shall notify victims and  
126 witnesses. Upon receiving such notice, the attorney general shall file escape from commitment  
127 charges under section 575.195.

128       **11. When a person who has been granted conditional release under this section is**  
129 **being electronically monitored and remains in the county, city, town, or village where the**  
130 **facility is located that released the person, the department of corrections shall provide,**  
131 **upon request, the chief of the local law enforcement agency of such county, city, town, or**  
132 **village with access to the information gathered by the global positioning system or other**  
133 **technology used to monitor the person. This access shall include, but not be limited to, any**  
134 **user name or password needed to view any real-time or recorded information about the**  
135 **person, and any alert or message generated by the technology. The access shall continue**  
136 **while the person is being electronically monitored and is living in the county, city, town,**  
137 **or village where the facility that released the offender is located. The information obtained**  
138 **by the chief of the local law enforcement agency shall be closed and shall not be disclosed**  
139 **to any person outside the law enforcement agency except upon an order of the court**  
140 **supervising the conditional release.**

      Section 1. It is the intent of the legislature to reject and abrogate earlier case law  
2 interpretations on the meaning of or definition of "sexually violent offense" to include, but  
3 not be limited to, holdings in: *Robertson v. State*, 392 S.W.3d 1 (Mo. App. W.D., 2012); and  
4 *State ex rel. Whitaker v. Satterfield*, 386 S.W.3d 893 (Mo. App. S.D., 2012) and all cases  
5 citing, interpreting, applying, or following those cases. It is the intent of the legislature to  
6 apply these provisions retroactively.

Section B. Because immediate action is necessary to protect the victims of sexual violent  
2 offenses and to protect children the repeal and reenactment of sections 556.061, 568.060, and  
3 632.480 of this act is deemed necessary for the immediate preservation of the public health,  
4 welfare, peace, and safety, and is hereby declared to be an emergency act within the meaning of  
5 the constitution, and the repeal and reenactment of sections 556.061, 568.060, and 632.480 of  
6 this act shall be in full force and effect upon its passage and approval.

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